








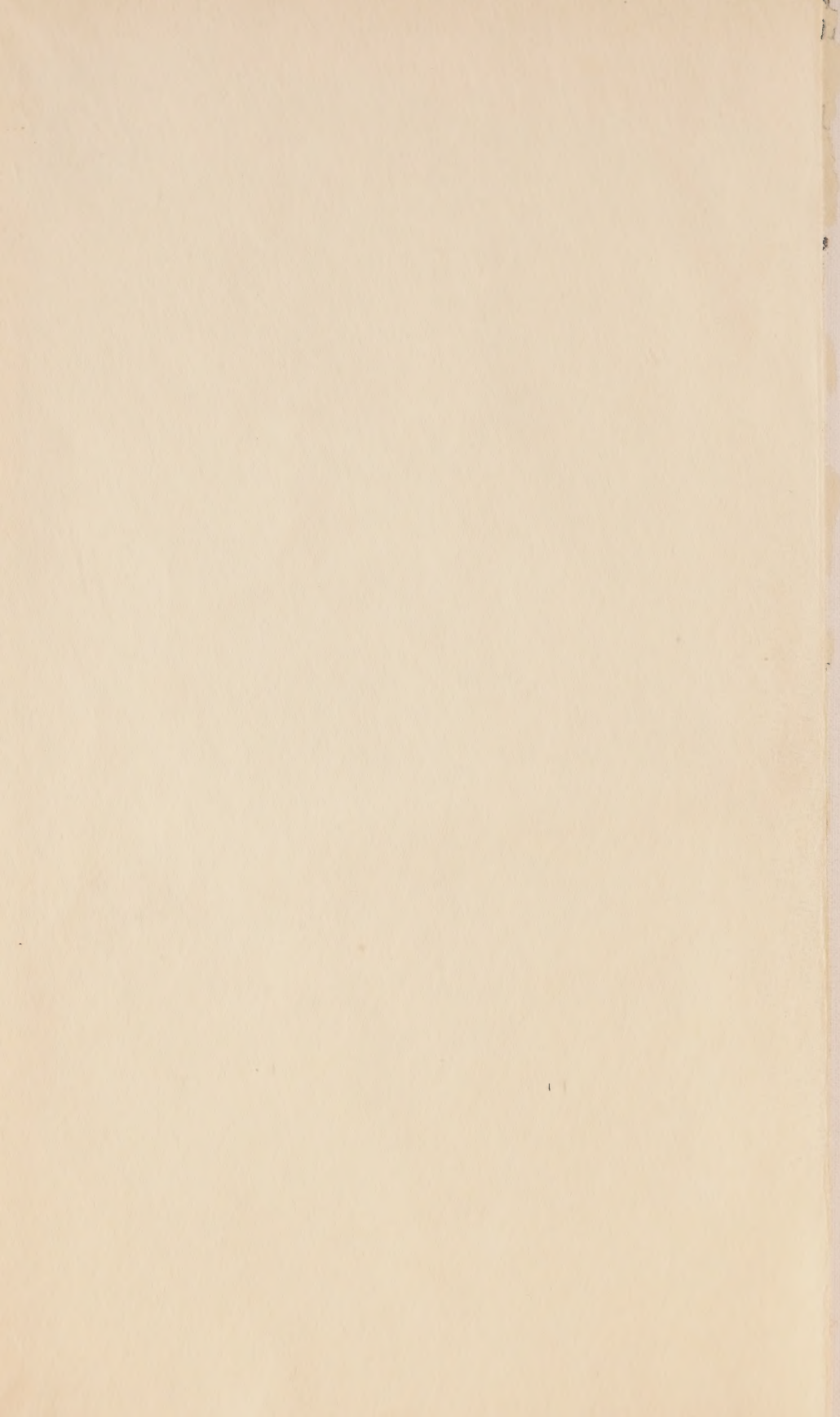


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# STATUTES

OF THE

# PROVINCE OF ONTARIO,

PASSED IN THE SESSION HELD IN THE

THIRTY-SECOND YEAR OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA,

BEING THE SECOND SESSION OF THE FIRST PARLIAMENT OF ONTARIO,

BEGUN AND HOLDEN AT TORONTO, ON THE THIRD DAY OF NOVEMBER, IN THE  
YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT.

1868/69



HIS EXCELLENCY  
HONOURABLE WILLIAM PEARCE HOWLAND, C.B.,  
LIEUTENANT GOVERNOR.

Toronto:

PRINTED BY HENRY JERVIS HARTNEY,  
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY:

ANNO DOMINI 1869.

3309  
17/5/90





THIRTY-NINTH YEAR OF THE REIGN OF HER MAJESTY  
QUEEN VICTORIA  
PRINTED BY THE QUEEN'S PRINTER  
AND SOLD BY THE QUEEN'S PRINTER  
AT THE QUEEN'S PRINTER'S OFFICE  
IN THE CITY OF TORONTO

3309  
17/5/90

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HENRY JERVIS HARTNEY,  
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.





ANNO-TRICESIMO SECUNDO.

## VICTORIÆ REGINÆ.

### CAP. I.

An Act for Granting to Her Majesty certain sums of money required for Defraying the Expenses of Civil Government for the year 1869; for making good certain sums Expended for the Public Service in 1868, and for other Purposes.

[Assented to 23rd January, 1869.]

MOST GRACIOUS SOVEREIGN :—

**W**HEREAS it appears by Messages from His Excellency the Honourable WILLIAM PEARCE HOWLAND, C.B., Lieutenant Governor of the Province of Ontario, and the estimates accompanying the same, that the sums hereinafter, in the schedule to this Act mentioned, are required to defray certain expenses of the Civil Government of this Province, and of the public service thereof, and for other purposes, for the year one thousand eight hundred and sixty-nine, and to make good certain sums expended for the public service in the year one thousand eight hundred and sixty-eight, may it therefore, please your Majesty, that it may be enacted and be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, as follows :—

**1.** From and out of the Consolidated Revenue Fund of this Province, there shall and may be paid and applied a sum not exceeding in the whole one million six hundred and seven thousand, six hundred and sixty-four dollars and seventy-nine cents for defraying the several charges and expenses of the Civil Government of this Province for the year one thousand eight hundred and sixty-nine, and for other purposes: Provided always, that any appropriation made by this Act, which shall be unexpended on the

Appropriation.  
Proviso.  
the

the thirty-first day of December, one thousand eight hundred and sixty nine, shall become void and of no effect.

\$4000 to Mrs.  
Isabella  
McKenzie.

2. There shall be charged to the Consolidated Revenue Fund of this Province the sum of four thousand dollars to make good that amount paid to Mrs. Isabella McKenzie, widow of the late William Lyon McKenzie, in accordance with an Address passed by the Legislative Assembly, on the third day of March, one thousand eight hundred and sixty-eight.

Advances by  
the Dominion  
of Canada.

3. There shall be charged to the Consolidated Revenue Fund of this Province the further sum of thirteen thousand two hundred and sixty-four dollars and seventy-two cents, to make good the expenditures defrayed by the Dominion of Canada on account of the Province of Ontario during the nine months ending the thirtieth day of September, one thousand eight hundred and sixty-eight, as detailed in statement number six of the Public Accounts of the Province of Ontario, for the said nine months, and save excepting out of the said sum of thirteen thousand two hundred and sixty-four dollars and seventy-two cents, the several sums mentioned in statement number six of the said Public Accounts, under the heads of "Public Works and Buildings," "Crown Lands' Expenditure," and "Miscellaneous;" which said several items amount in all to the sum of three thousand three hundred and forty-five dollars and thirteen cents.

Advances to  
Toronto General  
Hospital,

4. And whereas it is expedient to advance the sum of four thousand dollars to the Toronto General Hospital by way of loan, to prevent the same being closed up, the said amount to form a charge on the said Toronto General Hospital, and the hereditaments and property belonging or appertaining to the same: be it therefore declared and enacted, that the said sum of four thousand dollars be advanced out of the said Consolidated Revenue Fund by way of a loan to the Toronto General Hospital; and that the said sum of four thousand dollars and the interest thereon at the rate of six per centum per annum shall form a charge and lien on the said hospital, and the hereditaments and property belonging or appurtenant to the same, subject to all legal incumbrances and charges thereon now subsisting; and the said sum of four thousand dollars, with interest as aforesaid, shall be repaid to the Treasurer of Ontario, to and for the use of Her Majesty, whenever the same shall be demanded;

and to cer-  
tain Medical  
Schools.

5. And whereas it is inexpedient to pay money out of the Public Treasury to aid the Faculties of any of the Denominational Colleges, but unless the sums hereafter mentioned be granted for the year one thousand eight hundred and sixty-nine, embarrassment might arise: be it therefore declared and enacted, that there shall be granted out of the Consolidated Revenue Fund of this Province, the several sums after mentioned, namely: seven hundred and fifty dollars to the Medical Faculty, Victoria College, Cobourg; seven hundred and fifty dollars to  
the



the School of Medicine, Kingston; and seven hundred and fifty dollars to the School of Medicine, Toronto; but the same shall not hereafter be continued to such of the said Medical Schools as shall be, or remain in connection with, or under the control of any Denominational College;

6. And whereas under the altered circumstances of the country, and the increased expense of living, it has been found that the Judges of the Superior Courts are inadequately paid; be it therefore enacted, that there shall be paid for the year one thousand eight hundred and sixty-nine, and for every year thereafter, out of the Consolidated Revenue Fund of this Province annually, to the President or Chief Justice of the Court of Error and Appeal, and to each of the Judges of the Superior Courts of Law and Equity in this Province, the sum of one thousand dollars.

7. Accounts in detail of all moneys received on account of this Province, and of all expenditure under this Act, shall be laid before the Legislative Assembly at its next session.

8. The due application of all moneys expended under this Act, shall be accounted for to Her Majesty.

# SCHEDULE.

Sums granted to Her Majesty by this Act, and the purposes for which they are granted.

SERVICE.	\$ cts.	\$ cts.	\$ cts.
<b>CIVIL GOVERNMENT.</b>			
<b>LIEUTENANT GOVERNOR'S OFFICE.</b>			
Private Secretary, Salary.....	800 00		
Messenger, do .....	400 00		
		7 1,200 00	
<b>EXECUTIVE COUNCIL OFFICE.</b>			
Clerk, Salary .....	400 00		
Caretaker, do .....	365 00		
Messenger, part Salary.....	250 00		
		1,015 00	
<b>ATTORNEY GENERAL'S OFFICE.</b>			
Attorney-General, as Premier, Salary.....	4,000 00		
Chief Clerk, Salary .....	1,200 00		
Second do do .....	700 00		
Messenger, part Salary.....	250 00		
		6,150 00	
<b>TREASURY DEPARTMENT.</b>			
Treasurer, Salary .....	3,200 00		
Accountant, do .....	1,200 00		
Chief Clerk, Audit Branch, Salary.....	1,200 00		
Junior do do .....	550 00		
Clerk of Correspondence, do .....	650 00		
Messenger, do .....	365 00		
		7,165 00	
<b>SECRETARY AND REGISTRAR'S OFFICE.</b>			
Secretary and Registrar, Salary.....	3,200 00		
Assistant Secretary and Deputy Registrar, Salary.....	1,600 00		
First Clerk, .....	800 00		
Two Clerks, at \$2 per diem.....	1,460 00		
Two do \$1 do .....	730 00		
Messenger.....	365 00		
		8,155 00	
<b>DEPARTMENT OF AGRICULTURE AND PUBLIC WORKS.</b>			
Commissioner, Salary .....	3,200 00		
Architect and Engineer, Salary, \$2,000, \$400 of which is to be paid out of the Lunatic Asylum Estimate .....	1,600 00		
Secretary of Public Works, Salary .....	1,000 00		
Secretary of Agriculture, do .....	800 00		
Accountant, do .....	800 00		
Messenger, do .....	365 00		
		7,765 00	
<b>CROWN LANDS DEPARTMENT.</b>			
Commissioner, Salary .....	3,200 00		
Assistant Commissioner, Salary .....	2,600 00		
Surveys Branch, Salaries .....	3,810 00		
Land Claims and Sales in Old Townships Branch, Salaries.....	4,760 00		
Carried forward.....	14,370 00	31,450 00	



SERVICE.	\$ cts.	\$ cts.	\$ cts.
<i>Brought forward</i> .....	14,370 00	31,450 00	
CIVIL GOVERNMENT—( <i>Continued.</i> )			
CROWN LANDS DEPARTMENT—( <i>Continued.</i> )			
Clergy and School Lands and Crown Lands in New Townships			
Branch, Salaries.....	5,500 00		
Letters Patent do .....	3,030 00		
Woods and Forests Branch, Salaries .....	3,200 00		
Accounts do do .....	7,220 00		
Colonization Roads do do .....	2,400 00		
Registrar's do do .....	1,400 00		
Office Keeper, Salary.....	500 00		
Messenger, do .....	450 00		
		38,070 00	
CONTINGENCIES			
Of the Departments, not otherwise provided for, including Printing, Stationery, Advertising, Blank Books, Postages, Telegrams, Additional Clerk-hire, &c., &c., viz:—			
Lieutenant-Governor's Office.....	210 00		
Executive Council Office.....	780 00		
Attorney-General's Office.....	805 00		
Treasury Department .....	3,075 00		
Secretary and Registrar's Office.....	2,568 00		
Department of Agriculture and Public Works.....	1,933 00		
Crown Lands Department.....	12,000 00		
Normal and Model Schools .....	7,298 00		
Education Office .....	2,180 00		
		30,849 00	
CROWN LANDS EXPENDITURE.			100,369 00
Salaries and Expenses of Travelling Agents.....	5,000 00		
Board of Surveyors .....	400 00		
Agents' Salaries, Commission and Disbursements.....	35,000 00		
Refunds.....	10,000 00		
Surveys.....	50,000 00		
			100,400 00
COLONIZATION ROADS.			
For construction and repairs.....			50,000 00
LEGISLATION.			
<i>Salaries.</i>			
Mr. Speaker.....	1,000 00		
Clerk of the House.....	1,400 00		
Assistant Clerk and Accountant.....	1,200 00		
Clerk of Committees.....	1,200 00		
Law Clerk, arrears. 1868.....	1,000 00		
do 1869.....	1,000 00		
First Office Clerk .....	800 00		
Clerk of Routine and Records .....	600 00		
Clerk of the Crown in Chancery .....	400 00		
Sergeant-at-Arms .....	400 00		
Junior Clerk.....	500 00		
Housekeeper and Chief Messenger .....	500 00		
Three Messengers at \$365 .....	1,095 00		
Fireman .....	365 00		
Night Watchman.....	365 00		
		11,825 00	
Sessional Writers, Messengers and Pages .....		2,000 00	
Postages and cost of House Post Office .....		1,500 00	
Stationery, including Printing-Paper, Printing and Binding...		5,000 00	
<i>Carried forward</i> .....		20,325 00	250,769 00

SERVICE.	\$ cts.	\$ cts.	\$ cts.
<i>Brought forward</i> .....		20,325 00	250,769 00
LEGISLATION—(Continued).			
<i>Salaries—(Continued).</i>			
Printing, Binding and Distributing the Statutes.....		3,500 00	
Expenses of Elections .....		1,000 00	
Increase of Library.....		1,000 00	
Indemnity to Members, including Mileage .....		30,000 00	
Contingencies.....		2,000 00	
			57,825 00
ADMINISTRATION OF JUSTICE.			
COURT OF CHANCERY.			
Salary of Master.....	2,240 00		
Arrears, 1868 (not to be continued).....	760 00		
Salary of Taxing Officer.....	1,600 00		
do Senior Clerk, Master's Office .....	1,000 00		
do Junior do do .....	800 00		
do Registrar .....	1,840 00		
do Clerk, Registrar's Office .....	1,000 00		
do do do .....	1,000 00		
do do do .....	1,000 00		
do Entering Clerk.....	600 00		
do do .....	500 00		
do Usher and Housekeeper.....	450 00		
do Messenger .....	365 00		
do Surrogate Court Clerk.....	1,600 00		
Contingencies.....	1,182 00		
		15,937 00	
COURT OF QUEEN'S BENCH.			
Salary of Clerk of the Crown.....	1,840 00		
do Senior Clerk .....	1,200 00		
do Junior do .....	1,000 00		
do Clerk of Process .....	1,400 00		
do Assistant in Process Office.....	400 00		
do Housekeeper and Messenger.....	500 00		
do Usher and Crier .....	160 00		
do Assistant Messenger .....	160 00		
Contingencies.....	750 00		
		7,410 00	
COURT OF COMMON PLEAS.			
Salary of Clerk of the Crown.....	1,840 00		
do Senior Clerk.....	1,200 00		
do Junior do .....	1,000 00		
do Usher and Crier .....	160 00		
Contingencies.....	500 00		
		4,700 00	
CRIMINAL JUSTICE.			
Crown Counsel, Criminal Prosecutions .....	10,000 00		
Administration of Criminal Justice.....	117 000 00		
Special Services, Criminal Justice.....	2,000 00		
		129,000 00	
MISCELLANEOUS JUSTICE.			
Deputy Clerks of the Crown and Pleas.....	12,100 00		
To meet expenses of Administration of Justice in the Districts of Algoma, Nipissing and Muskoka, and other services .....	17,900 00		
To meet expenses incurred by the authorities <i>in re</i> Driscoll Murder, Kingston.....	712 82		
do <i>In re</i> Newbecker Murder, Bruce .....	459 36		
do <i>In re</i> Benson Forgery, London.....	65 69		
<i>Carried forward</i> .....	31,237 87	157,047 00	308,594 00



SERVICE.	\$ cts.	\$ cts.	\$ cts.
<i>Brought forward</i> .....	31,237 87	157,047 00	308,594 00
ADMINISTRATION OF JUSTICE—( <i>Continued.</i> )			
MISCELLANEOUS JUSTICE—( <i>Continued.</i> )			
Seals and other contingencies .....	200 00		
PUBLIC WORKS AND BUILDINGS.		31,437 87	188,484 87
Departmental and Parliamentary Buildings.....	8,473 32		
Government House.—Completing Lieut.-Gov's Residence, including Outbuildings, Furniture, Fencing and Laying out Grounds .....	72,322 26		
Fuel, Gas Rent, &c., for Lieut.-Gov's present Residence.....	2,500 00		
Deaf and Dumb Institution.....	75,000 00		
LUNATIC ASYLUMS—(CAPITAL).		158,295 58	
Completing New Wings, P. L. A.....	75,000 00		
Furnishing Two Wings do .....	12,000 00		
Insurance on East Wing of do, from 1st January, 1869, to 1st February, 1870 (on \$20,000) .....	108 34		
Carpenter's Risk on P. L. A., from 1st January, 1869, to 1st February, 1870 .....	300 00		
New Pumping Engine for P. L. A., for Supplying Water .....	2,000 00		
House for Caretaker.....	600 00		
Towards Providing Additional Asylum Accommodation .....	100,000 00		
REFORMATORY—(CAPITAL).		190,008 34	
Workshops and Works for Supplying Water .....		5,000 00	
OSGOODE HALL.			
Repairs .....		500 00	
IMPROVEMENTS.			
Lock on Rosseau River .....	35,000 00		
Lock at Yonge's Point .....	30,000 00		
Navigation between Balsam and Cameron Lakes .....	20,000 00		
SWAMP LANDS.		85,000 00	
Survey of Swamp Lands, and Drainage of Crown Lands.....		15,000 00	
ASYLUM MAINTENANCE.			453,803 92
Provincial Lunatic Asylum, Toronto.....	78,300 00		
Malden do .....	32,676 00		
Orillia do .....	17,954 00		
Rockwood do .....	14,300 00		
REFORMATORY.			143,230 00
Maintenance.....			23,627 00
AGRICULTURE.			
Electoral Division Societies—73 at \$700 each .....	51,100 00		
1 at \$550 .....	550 00		
7 at \$350 “ .....	2,450 00		
Fruit Growers' Association .....	350 00		
Agricultural Association.....	10,000 00		
Mechanics' Institutes .....	4,000 00		
			68,450 00
<i>Carried forward</i> .....			1,186,189 79

SERVICE.	\$ cts.	\$ cts.	\$ cts.
<i>Brought forward</i> .....			1,186,189 79
IMMIGRATION.			
Grant in aid of Immigration.....			10,000 00
MISCELLANEOUS.			
Salary of Inspector of Prisons.....	2,000 00		
Expenses of do .....	500 00		
Cost of Official Gazette.....	3,000 00		
Expenses of Arbitration.....	1,000 00		
Salary of Inspector of Registry Offices .....	2,000 00		
To cover gratuities to public officers whose services may be dispensed with .....	20,000 00		
To aid the destitute Colonists of the Red River Settlement, in the discretion of the Government, not to exceed .....	5,000 00		
			33,500 00
HOSPITALS AND CHARITIES.			
Aid to Toronto Hospital, Toronto.....	6,400 00		
do do do for County Patients, Toronto.....	4,800 00		
do House of Industry do .....	2,400 00		
do Protestant Orphans' Home and Female Aid Society, Toronto.....	640 00		
do Roman Catholic Orphan Asylum, Toronto.....	640 00		
do Lying-in Hospital, Toronto .....	480 00		
do Magdalen Asylum, do .....	480 00		
do House of Providence, do .....	320 00		
do Girls' Home and Public Nursery, Toronto.....	320 00		
do General Hospital, Kingston.....	4,800 00		
do House of Industry and Refuge for Indigent Sick, Kings- ton.....	2,400 00		
do Orphans' Home, Kingston.....	640 00		
do Hotel Dieu Hospital do .....	800 00		
do General Hospital, London.....	2,400 00		
do City Hospital, Hamilton.....	4,800 00		
do Roman Catholic Orphan Asylum, Hamilton.....	640 00		
do Orphan Asylum and Ladies' Benevolent Society, Hamilton.....	640 00		
do Protestant Hospital, Ottawa .....	1,200 00		
do Roman Catholic Hospital, Ottawa .....	1,200 00		
In aid of the Deaf and Dumb.....	3,000 00		
Aid to General Hospital, St. Catharines .....	1,000 00		
			40,000 00
LITERARY AND SCIENTIFIC INSTITUTIONS.			
Aid to Medical Faculty, Victoria College, Cobourg.....	750 00		
do School of Medicine, Kingston.....	750 00		
do School of Medicine, Toronto.....	750 00		
do Canadian Institute, do .....	750 00		
do Canadian Institute, Ottawa .....	300 00		
do Athenæum, do .....	300 00		
			3,600 00
EDUCATION.			
Common and Separate Schools.....		170,000 00	
Poor Schools .....		4,000 00	
Normal and Model Schools, Salaries.....		10,512 00	
Grammar Schools.....		57,500 00	
DEPOSITORY.			
Libraries, Apparatus and Prizes.....	33,058 00		
Salaries and Wages, viz. :—			
Clerk of Libraries.....	\$1,200 00		
Assistant Clerk of Libraries.....	500 00		
<i>Carried forward</i> .....	33,058 00	242,012 00	1,273,289 79



SERVICE.	\$ cts.	\$ cts.	\$ cts.
<i>Brought forward</i> .....	33,058 00	242,012 00	1,273,289 79
EDUCATION—( <i>Continued.</i> )			
DEPOSITORY—( <i>Continued.</i> )			
Depository Salesman .....	400 00		
Assistant do .....	150 00		
Junior do .....	120 00		
Packer and Messenger.....	320 00		
Labourer .....	252 00		
	2,942 00		
Superannuated Teachers.....		36,000 00	
Museum and Library.....		6,500 00	
		3,500 00	
JOURNAL OF EDUCATION.			
Editing.....	\$400 00		
Printing, wrapping, addressing and mailing 5,000 copies per month.....	1,400 00		
		1,800 00	
Grammar School Inspection .....		2,000 00	
County Common School Superintendents, part Salaries, 45 at \$300.....		13,500 00	
EDUCATION OFFICE.			
<i>Salaries.</i>			
Superintendent of Education .....	\$4,000 00		
Deputy do .....	2,200 00		
Senior Clerk, Book-keeper and Registrar of Me- teorological Observations .....	1,400 00		
Corresponding Clerk.....	900 00		
Assistant Corresponding Clerk.....	600 00		
Statistical Clerk.....	1,000 00		
Assistant do .....	800 00		
Messenger, \$1 per day.....	365 00		
Cleaning .....	48 00		
		11,313 00	
UNFORESEEN AND UNPROVIDED EXPENSES.			316,625 00
To meet Unforeseen and Unprovided Expenses .....			20,000 00
To make good the amount paid to Mrs. Isabella McKenzie, widow of the late William Lyon McKenzie, in accordance with an Address passed by the Legislative Assembly, on 3rd March, 1868.....			4,000 00
To meet the amount expended by the Dominion Government on account of the Province of Ontario, as per Statement No. 6 of the Public Accounts, for the nine months ending 30th September, 1868.....			9,919 59
Loan to Toronto General Hospital, to prevent the same being closed up, to form a charge on the Toronto General Hospi- tal hereditaments and property.....			4,000 00
To the President of the Court of Error and Appeal, and to each of the Judges of the Superior Courts of the Province of Ontario, \$1,000.00.....			10,000 00
TOTAL.....			1,637,834 38

## CAP. II.

An Act for continuing the Legislative Assembly of Ontario, in case of the demise of the Crown.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS the welfare of this Province might be exposed to great dangers, if the Legislature of Ontario should be dissolved by the demise of Our Sovereign Lady Queen Victoria (whom God long preserve), or by the demise of any of Her Majesty's Heirs and Successors: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Legislature not dissolved by demise of the Crown.

1. No Legislature heretofore or hereafter summoned or called, in and for the Province of Ontario, shall determine or be dissolved by the demise of the Crown, but such Legislature shall continue, and may meet, convene and sit, proceed and act, notwithstanding such demise of the Crown, in the same manner as if such demise had not happened.

Power to prorogue or dissolve not affected.

2. Nothing in the next preceding section shall alter or abridge the power of the Crown to prorogue or dissolve the said Legislature.

## CAP. III.

An Act to define the Privileges, Immunities and Powers of the Legislative Assembly, and to give Summary Protection to Persons Employed in the Publication of Sessional Papers.

[Assented to 19th December, 1868.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Privileges, etc., to be the same as those of the House of Commons.

1. The Legislative Assembly, and the members thereof respectively, shall hold, enjoy and exercise such and the like privileges, immunities and powers, as are held, enjoyed and exercised by the Commons House of Parliament of the Dominion of Canada, and by the members thereof.

To be noticed judicially.

2. Such privileges, immunities and powers shall be deemed to be, and shall be, part of the general and public law of Ontario ;



Ontario; and it shall not be necessary to plead the same, but the same shall in all Courts in Ontario, and by and before all Judges, be taken notice of judicially.

3. Upon any inquiry touching the privileges, immunities and powers of the Legislative Assembly, or of any member thereof, any copy of the Journals of such Assembly, printed or purporting to be printed by the order of the same, shall be admitted as evidence of such Journals by all Courts, Justices, and others, without any proof being given that such copies were so printed.

Printed copy  
of journals to  
be evidence  
thereof.

4. Any person who shall be a defendant in any civil proceedings commenced or prosecuted in any manner soever for or on account of or in respect of the publication of any report, paper, votes or proceedings, by such person or by his servant, by or under the authority of the Legislative Assembly, may bring before the Court in which such proceedings shall be so commenced or prosecuted or before any Judge of the same, first giving twenty-four hours' notice of his intention so to do to the plaintiff in such proceeding, or to his Attorney or Solicitor, a certificate under the hand of the Speaker or Clerk of the Legislative Assembly, stating that the report, paper, votes or proceedings as the case may be, in respect whereof such civil proceedings shall have been commenced or prosecuted, was or were published by such person or by his servant, by order or under the authority of the Legislative Assembly, together with an affidavit verifying such certificate; and such Court or Judge shall thereupon immediately stay such civil proceedings, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined and superseded by virtue of this Act.

In suit for  
publishing,  
Court may  
stay proceed-  
ings, on proof  
that publi-  
cation was by  
authority of  
Assembly.

5. In case of any civil proceeding hereafter to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings, the defendant at any stage of the proceeding may lay before the Court or Judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and the Court or Judge shall immediately stay such civil proceedings, and the same and every writ or process issued therein, shall be and shall be deemed to be finally put an end to, determined and superseded by virtue of this Act.

The like in  
cases com-  
menced here-  
after.

6. It shall be lawful in any civil proceeding in Ontario to be commenced or prosecuted for printing any extract from or abstract of any such report, paper, votes or proceedings, to give in evidence under the general issue or denial, such report, paper, votes or proceedings, and to show that such extract

Such proof  
may be made  
under the plea  
of general  
issue.

extract or abstract was published *bona fide* and without malice, and if such shall be the opinion of the jury, a verdict shall be entered for the defendant.

## CAP. IV.

### An Act to secure the Independence of the Legislative Assembly.

[Assented to 19th December, 1868.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Persons holding office in Ontario ineligible.

1. Except as hereinafter specially provided, no person accepting or holding any office, commission or employment either in the service of the Government of Ontario, or in the service of the Dominion of Canada, at the nomination of the Crown, to which any salary, or any fee, allowance or emolument in lieu of any salary from the Crown is attached, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same during the time he holds such office, occupation or employment.

Exceptions as to persons holding certain offices.

2. Nothing in this section shall render ineligible as aforesaid, any person being a member of the Executive Council, or holding any of the following offices, that is to say: Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, or Commissioner of Agriculture and Public Works, or shall disqualify him to sit or vote in the Legislative Assembly, provided he be elected while holding such office, and not otherwise disqualified.

Exceptions as to officers in the Army, Navy or Militia.

3. Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit or vote in the Legislative Assembly, any officer of Her Majesty's Army or Navy, or any officer in the Militia or Militiaman (except officers on the Staff of the Militia receiving permanent salaries) unless he be otherwise disqualified.

No Senator or Privy Councillor eligible.

2. No Senator or Privy Councillor of the Dominion of Canada shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same.

No public contractor eligible.

3. No person whosoever holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, any contract or agreement with Her Majesty, or with any public



lie officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service or work, matter or thing, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same.

4. If any person hereby disqualified or declared incapable of being elected a member of the Legislative Assembly, is nevertheless elected and returned as a member, his election and return shall be null and void. Election of persons disqualified to be void.

5. No person disqualified by the next preceding sections or by any other law, to be elected a member of the Legislative Assembly, shall sit or vote in the same while he remains under such disqualification; and if any person disqualified or declared incapable of sitting or voting in the Legislative Assembly, by the first, second or third sections, sits or votes therein, he shall thereby forfeit the sum of two thousand dollars, for each and every day on which he so sits or votes; and such sum may be recovered from him by any person who will sue for the same, by action of debt, bill, plaint or information in any Court of competent civil jurisdiction in Ontario. No disqualified person shall sit or vote. Penalty. How recoverable.

6. If any member of the Legislative Assembly, by accepting any office or becoming a party to any such contract or agreement, as in the third clause mentioned, becomes disqualified by law to continue to sit or vote in the same, his election shall thereby become void, and the seat of such member shall be vacated, and a writ shall, in the manner provided by the twelfth section of this Act, issue for a new election as if he were naturally dead; but he may be re-elected if he be not declared ineligible under this Act. Member accepting office to vacate his seat. May be re-elected.

7. Nevertheless, whenever any person holding the office of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, or Commissioner of Agriculture and Public Works, and being at the same time a member of the Legislative Assembly, resigns his office, and within one month after his resignation accepts any other of the said offices, he shall not thereby vacate his seat in the said Legislative Assembly; unless the Administration of which such person was a member shall have resigned, and a new Administration shall have occupied the said offices. Certain officers may resign one office and accept another without vacating.

8. If any member of the Executive Council of Ontario shall, whilst he holds such office, sit or vote as a member of the House of Commons for the Dominion of Canada, he shall thereby forfeit his said office of Executive Councillor, and his appointment as such Executive Councillor shall from thenceforth be and become null and void, and he shall be incapable of being re-appointed. Executive Council sitting or voting in House of Commons to forfeit his office, etc.

re-appointed to or holding the office of Executive Councillor of Ontario so long as he shall be a member of the House of Commons of Canada.

Members may resign their seats.

9. Any member of the Legislative Assembly may voluntarily resign and vacate his seat in the manner hereinafter provided.

Proceedings in such case for issue of new writ, by notice in the House,

10. Any such member wishing to resign his seat, may do so by giving in his place in the Legislative Assembly notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the House, the Speaker shall address his warrant under his hand and seal, to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member resigning;

or by notice in writing to the Speaker.

2. Or such member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a session of the Legislature, or in the interval between two sessions; and the Speaker shall, upon receiving such declaration, forthwith address his warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member so resigning, and a writ shall issue accordingly; and an entry of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the House.

Seat vacated on such notice.

3. The member so tendering his resignation, shall be held to have thereby vacated his seat, and to have ceased to be a member of the said Legislative Assembly.

No member to resign contested seat.

11. But no member shall so tender his resignation while his election is lawfully contested, nor, until after the expiration of the time during which it may by law be contested, on other grounds than corruption or bribery.

Proceedings where a member wishes to resign when there is no Speaker, or the member be himself the Speaker.

12. If any member of the Legislative Assembly wishes to resign his seat in the interval between two sessions of the Legislature, and there is then no Speaker, or if such member be himself the Speaker, he may address and cause to be delivered to any two members of the House, the declaration before mentioned of his intention to resign, and such two members, upon receiving such declaration, shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery, for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and such writ shall issue accordingly; and the member so tendering his resignation shall be held to have vacated his seat and cease to be a member of the House.



**13.** If any vacancy happens in the Legislative Assembly, by the death of any member, or by his accepting any office, or by his becoming a party to any contract as mentioned in the third section of this Act, the Speaker on being informed of such vacancy by any member of the House in his place, or by notice in writing under the hands and seals of any two members of the House, shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy, and a new writ shall issue accordingly.

Proceedings in case of vacancy by death or acceptance of office.

**2.** If when such vacancy happens, or at any time thereafter, before the Speaker's warrant for a new writ has issued, there be no Speaker of the House, or the Speaker be absent from the Province, or if the member whose seat is vacated be himself the Speaker, then any two members of the House may address their warrant, under their hands and seals, to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill such vacancy, and such writ shall issue accordingly.

Proceedings when Speaker is absent from Canada, or there is no Speaker.

**14.** A warrant may issue under the hands and seals of any two members elect of the Legislative Assembly to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member of the Legislative Assembly, to fill any vacancy arising subsequently to a general election and before the first meeting of such Assembly thereafter, by reason of the death or other of the causes aforesaid, and such writ may issue at any time after such vacancy;

Warrant for filling a vacancy before Parliament meets after a general election.

**2.** But the election to be held under such writ, shall not in any manner affect the rights of any person entitled to contest the previous election; and the report, of any election committee appointed to try such previous election, shall determine whether the member who has so died or whose seat has become so vacant as aforesaid, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such member and in favour of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held;

Election being contested, not affected.

**15.** Provided always, that the eighth section of this Act, and the words "except officers on the Staff of the Militia receiving permanent salaries," in the third sub-section of the first section, so far as the same relate to or affect any member of the present Legislative Assembly, shall not come into operation until the dissolution of the present Legislative Assembly of this Province, and of the present House of Commons.

Proviso.

Commencement of Act.

## CAP. V.

An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of the Legislative Assembly.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS it is expedient that the select committees of the Legislative Assembly on private bills should be enabled to administer an oath to the witnesses examined before them: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Select committee may examine witnesses upon oath.

1. Any select committee of the Legislative Assembly to which any private bill has been referred by that House, may examine witnesses upon oath, upon matters relating to such bill, and for that purpose the chairman or any member of such committee may administer an oath, in the form A hereto annexed, to any such witness.

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FORM A.

*Form of oath to be administered.*

The evidence you shall give to the committee touching the bill entitled "An Act (*insert the title here*)", and which bill has been referred to this committee, shall be the truth, the whole truth, and nothing but the truth; so help you God.

## CAP. VI.

The Law Reform Act of 1868.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS the multiplicity of Courts of inferior jurisdiction entails great and unnecessary expense upon the country, and it is advisable to amend the laws relating thereto, and to make certain other provisions with a view to lessen such expense: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—



1. Sections thirteen and fifteen of chapter fifteen of the Consolidated Statutes of Upper Canada respecting County Courts, are hereby repealed from the time this Act shall take effect; but nothing herein contained shall invalidate any proceeding theretofore had or taken in any of the County Courts of this Province.

Secs. 13 and 14,  
chap. 15, Con.  
Stat. U. C.,  
repealed.

2. The several County Courts of this Province from the time this Act shall take effect, shall hold two terms in each year, to commence respectively on the first Monday in July and January in each year, and end on the Saturday of the same week; except the County Court of the County of York, which last mentioned Court shall hold three terms in each year, to commence respectively on the first Monday in the months of January and April and the last Monday of August, in each year, and end on the Saturday of the same week.

County Court  
terms.

3. The sittings of the said County Courts for the trial of issues of fact and assessment of damages, shall thenceforth be held semi-annually, to commence on the second Tuesday in the months of June and December in each year; except the County Court of the County of York, which last mentioned Court shall hold three such sittings in each year, to commence respectively on the second Tuesday in the months of March, July and December in each year.

Sittings for  
trial of issues,  
etc.

#### COUNTY COURTS' EQUITY JURISDICTION.—REPEAL.

4. Sections thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six and sixty-nine of the said statute, chapter fifteen, respecting the equity jurisdiction of the County Courts, are hereby repealed from the time this Act shall take effect, except as to any suit or proceeding then pending; but any suit or proceeding then pending may be prosecuted and proceeded with as if this Act had not passed.

County  
Courts' equity  
jurisdiction  
abolished.

2. In any suit or proceeding, which, before the passing of this Act, might have been brought, instituted or carried on under the equity jurisdiction of the County Courts, and which may hereafter be brought or carried on in the Court of Chancery, the stamps required, and the fees, costs and charges payable in respect thereof, shall be on a scale bearing, as far as practicable, the same proportion to the stamps, fees, costs and charges payable in other suits or proceedings in the said Court of Chancery, as the stamps, fees, costs and charges in actions in County Courts bear to the stamps, fees, costs and charges in actions in the Superior Courts of Common Law; and it shall be lawful

How costs  
regulated.

for

for the Judges of the said Court of Chancery to prepare a table of fees, costs and charges applicable to all such proceedings.

Secs. 67 and 68, chap. 15, Con. Stat., U. C., and chap. 14, 27 Vic., amended.

5. In amendment of the sixty-seventh section of the said statute, chapter fifteen, it is hereby enacted that the word "four" shall be struck out of the said section, and the word "ten" be substituted and read in lieu thereof; and in further amendment of the sixty-eighth section of the said statute, chapter fifteen, and in amendment of the Act of the Parliament of the late Province of Canada, passed in the second session, in the twenty-seventh year of Her Majesty's reign, chapter fourteen, it is hereby enacted that the words "party wishing so to appeal," used in said section sixty-eight shall for all purposes be taken and held to mean, as well parties on whose behalf, or for whose benefit, any suit is prosecuted or defended, and parties suing or defending in the name of others, though not named on the record, as parties so named; and the words "himself and" between the words "by" and "two" shall be struck out of the said section and omitted therefrom.

#### GENERAL SESSIONS.

Sec. 3, chap. 17, Con. Stat. U. C., repealed.

6. Section three of chapter seventeen of the Consolidated Statutes of Upper Canada, relating to Courts of Quarter Sessions of the Peace, is hereby repealed from the time this Act shall take effect.

General Sessions to be held semi-annually, except in County of York.

7. The Courts heretofore known as the Courts of General Quarter Sessions of the Peace in and for the several counties and union of counties in this Province, shall, after this Act takes effect, be called and known as the Courts of General Sessions of the Peace of the respective counties, and shall thenceforth be held semi-annually to commence on the second Tuesday in the months of June and December in each year; except in the County of York, in which County the said Courts of General Sessions of the Peace shall be held three times in the year, to commence on the second Tuesday in the months of March, July and December in each year, so that said sittings may come as nearly as may be midway between the sittings of the Courts of Oyer and Terminer and General Gaol Delivery in and for the several Counties of this Province.

Fees not to be increased.

8. The fees and charges payable and pertaining to officers of the County Court, the Jury fees, the Law Stamps of fees of office, and the dues and duties payable to the Crown upon all actions, suits or proceedings, brought in the County Courts and tried or assessed in the Superior Courts, shall be chargeable and paid as if the same were being tried or assessed in the County Courts as hitherto; and no other fees, stamps or dues, shall be chargeable thereon, and the Clerk of the County Court shall be entitled to receive and take such part thereof as pertains to him, to his own use.

9. In amendment of section two of chapter eight of the Act of the Parliament of the late Province of Canada, passed in the twenty-third year of Her Majesty's reign, it is hereby enacted that the appointment of constables and high constables may hereafter be made at any sitting or adjourned sitting of the said Courts of General Sessions of the Peace.

23 Vic. chap.  
8, sec. 2  
amended.!

2. Section one of chapter one hundred and twenty-one of the Consolidated Statutes of Upper Canada, entitled "An Act respecting the expenditure of County Funds for certain purposes within Upper Canada," is hereby repealed; and in lieu thereof it is hereby enacted, that all accounts and demands preferred against the County, the approving and auditing whereof heretofore belonged to the Quarter Sessions, shall henceforth be audited and approved by the magistrates of the respective counties and union of counties; and in amendment of section three of the said Act, it is hereby enacted, that such accounts and demands shall henceforth be delivered to the Clerks of the Peace of the respective counties on or before the first day of each General Sessions of the Peace, and of each sitting of the Courts of Oyer and Terminer and General Gaol Delivery in the respective counties and union of counties.

Sec. 1, chap.  
121, Con. Stat.  
U. C., re-  
pealed.

3. Such of the said accounts and demands as shall be so delivered on the first day of the sittings of the said Courts of Oyer and Terminer and General Gaol Delivery, shall be audited by a bench of at least seven magistrates, of whom the Chairman of the Court of General Sessions of the Peace shall be one, and shall be taken into consideration in the week next succeeding the week in which such sittings ended, and disposed of as soon as practicable; and such of the said accounts and demands as shall be so delivered on or before the first day of the General Sessions of the Peace, shall be audited at the time and in the manner provided by the said Act.

County ac-  
counts, how  
and when  
audited.

4. In amendment of sections one and four of chapter one hundred and twenty-four of the Consolidated Statutes of Upper Canada, entitled "An Act respecting the Returns of Convictions and Fines by Justices of the Peace, and of fines levied by Sheriffs," it is enacted, that the returns of convictions and fines by Justices of the Peace therein mentioned, shall henceforth be made to the Clerks of the Peace instead of the Courts of Quarter Sessions, and shall be made quarterly on or before the second Tuesday in the months of March, June, September and December in each year, and shall embrace in every instance, all convictions not embraced in some previous returns, and shall be published and fixed up by the Clerks of the Peace in manner in the said fourth section provided, within two weeks after the times hereby limited for the making of such returns; and in amendment of section five of the said Act, the words "Minister of Finance of the Province" shall be struck out of the said section, and the words "Treasurer of Ontario" inserted in their place.

Secs. 1, 4 and  
5, chap. 124,  
Con. Stat.  
U. C., amen-  
ded.



## RECORDERS' COURTS—REPEAL.

Recorders' Courts and commissions to Recorders to hold Division Courts abolished.

**10.** Sections three hundred and sixty, three hundred and sixty-eight, three hundred and sixty-nine, three hundred and seventy, three hundred and seventy-three, three hundred and seventy-five, three hundred and seventy-six, three hundred and seventy-seven, three hundred and seventy-eight, three hundred and seventy-nine, three hundred and eighty-one, three hundred and eighty-two, three hundred and eighty-three, three hundred and eighty-four, three hundred and eighty-five, three hundred and eighty-six, three hundred and eighty-seven, three hundred and eighty-eight and three hundred and ninety-four of the Act of the Parliament of the late Province of Canada, passed in the session held in the twenty-ninth and thirtieth years of Her Majesty's reign, entitled "An Act respecting the Municipal Institutions of Upper Canada," and all letters patent issued to any Recorder under the said section three hundred and eighty-one, are hereby repealed from the time this Act shall take effect; and the several Recorders' Courts of the cities of Toronto, Hamilton, London, Kingston and Ottawa, as well as also the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery for the County of the City of Toronto, are from thenceforth abolished; and the said cities shall thenceforth, for judicial purposes, be respectively united to and form part of the several counties in which they are respectively situate.

Cities united to counties for judicial purposes.

Police magistrates *ex officio* justices of the peace.

**11.** In lieu of the said section three hundred and seventy-three, it is hereby enacted, that every Police Magistrate shall *ex officio* be a Justice of the Peace for the city or town for which he holds office, as well as also for the county or union of counties in which such city or town is situate; and no other Justice of the Peace shall adjudicate upon, admit to bail, discharge prisoners or otherwise act, except at the Courts of General Sessions of the Peace, in any case for any town or city where there is a Police Magistrate, except in case of the illness or absence, or at the request in writing, of the Police Magistrate.

Investigations to be by County Judge in place of Recorder.

**12.** Section three hundred and eighty of the said Act is hereby amended by substituting the words "Judge of the County Court" for the words "Recorder of the City," and the words "Judge of the said County Court" for the word "Recorder," wherever they respectively occur throughout the said section.

No ratepayer, etc., incompetent as a witness, but liable to challenge as a juror, etc.

**13.** In lieu of section three hundred and eighty-seven of the said Act, it is hereby enacted, that in any prosecution, suit, action, or proceeding in any civil matter to which a corporation is a party, no ratepayer, member, officer, or servant of the corporation shall, on account of his being such, be incompetent as a witness; but they and every of them shall be liable to challenge as a juror, except where the municipal corporation, the party to such prosecution, suit, action or proceeding, be a county.

**14.** From the time this Act shall take effect all indictments, suits, proceedings and matters then pending, or commenced in any of the said Recorders' Courts, and not tried and finally determined, ended and completed, shall appertain and be transferred to the several Courts of General Sessions of the Peace of the respective counties in which the said cities are respectively situate; and the said Courts of General Sessions of the Peace shall have full jurisdiction and cognizance of all such indictments, proceedings and matters; and all such indictments, proceedings and matters shall be tried, proceeded with, conducted, done, performed and completed in and by the said last mentioned Courts, as if such indictments, proceedings, and matters had originated in or been pending therein,

Indictments, etc., pending in Recorders' Courts to be transferred to General Sessions.

**15.** In amendment of the three hundred and ninety-fourth section of the said last mentioned Act, respecting the Municipal Institutions of Upper Canada, it is hereby enacted, that the board of police in every city shall consist of the Mayor, the Judge of the County Court of the county in which the city is situate and the Police Magistrate; and if there be no Police Magistrate, the council of the city shall appoint a person resident therein, to be a member of the board of police of such city.

County Court Judge substituted for Recorder in board of police.

**16.** After this Act shall take effect, the several powers, duties, matters and things which theretofore appertained to or were authorized, or required to be exercised, done or performed in or by the said Recorders' Courts respectively, are hereby transferred, and shall appertain to and be exercised, done and performed by the Courts of General Sessions of the Peace of the counties in which the said cities are respectively situate, and the several duties, powers, acts, matters and things theretofore authorized, or required to be exercised, done or performed by the said Recorders shall thenceforth be exercised, done and performed by the Judges of the County Courts of the said respective counties.

All matters heretofore done by Recorders, to be done by County Court Judges.

#### TRIALS AND ASSESSMENTS.

**17.** All issues of fact and assessments of damages in the Superior Courts of common law relating to debt, covenant and contract, where the amount is liquidated or ascertained by the signature of the defendant, may be tried and assessed in the County Court of the county where the *venue* is laid, if the plaintiff desire it, unless a Judge of such Superior Court shall otherwise order, and upon such terms as he may deem meet, in which case an entry shall be made in the issue and subsequent proceedings in words, or to the effect of form A in the schedule to this Act, in place of the *venire facias*; and in the roll the *postea* shall be entered in words, or to the effect of form B in the said schedule.

Certain cases in Superior Courts to be tried in County Courts.

County Court cases to be tried in Superior Courts.

2. All issues of fact and assessments of damages in actions in any County Court, may be tried and assessed, at the election of the plaintiff, at any sittings of Assize and *Nisi Prius* for the county in which the *venue* is laid, without any order for that purpose, in which case an entry shall be made in the issue and subsequent proceedings in words, or to the effect of the form C in the said schedule, and in the roll the *postea* shall be entered in words, or to the effect of form D in the said schedule.

Notice of trial, etc., in such cases.

3. In any of the said cases, the notice of trial or assessment shall state that the cause will be tried, or the damages assessed, at such sittings according to the fact; and in cases in the Superior Courts, where the trial or assessment is intended to be had in the County Court, the issue shall be delivered, and the notice of trial or assessment served, ten clear days before the sittings of such County Court: Provided always, that nothing herein contained shall prevent a Judge of the Court in which the action is brought, or after the record is entered for trial or assessment, the Judge before whom the trial or assessment is intended to be had, from entertaining applications to postpone such trials or assessments.

Proviso.

How record made up and judgment entered.

4. Subject to the provisions herein contained, the record shall be made up, and entered and tried as in other cases; and in any of the said cases, judgment may be entered on the fifth day after verdict rendered or damages assessed, unless the Judge who tried the cause shall certify, on the record under his hand, that the case is one which, in his opinion, should stand to abide the result of a motion that may be made therein in term, or unless a Judge of one of the Superior Courts shall otherwise order: Provided always, that in any such case the Judge may certify for immediate execution.

Proviso.

Motion against verdict, etc., to be in the Superior Court.

5. Any motion to be made in respect to any verdict or assessment of damages in any County Court, tried or assessed at any sittings of Assize and *Nisi Prius*, shall be made, heard and determined in the Superior Court of law at Toronto, which the party moving or applying shall elect, and according to the practice of that Court; and any rule or order made in such cause by such Court shall be valid and binding.

Books for Judge's notes of trial, etc.

6. The Clerks of the several County Courts shall provide books in which the Judges sitting in the Courts of Assize and *Nisi Prius*, where cases brought in any County Court shall be tried or assessed under this Act, may enter their notes of such trials and assessments; which books, immediately after such trials or assessments, shall be returned to and remain in, the offices of such Clerks.

Certified copy of notes of cases.

7. On the application of any of the parties, the County Court Clerks shall, at the cost of such party, forward to the Clerk of the



the Crown and Pleas at Toronto of such of the Superior Courts as such party shall designate, a certified copy of the Judge's notes of the trial or assessment of any such cases, together with the record and exhibits, to enable such Superior Court properly to dispose of any application made, or to be made in or respecting such cases.

8. The costs on all such proceedings in the said several Courts, shall be the usual costs of such cases in the Court in which the action is brought. Costs in such cases.

18. In amendment of the second section of chapter thirty-one of the Consolidated Statutes of Upper Canada, entitled *An Act respecting Jurors and Juries*, it is enacted:— Sec. 2, chap. 31, Con. Stat. U. C., amended.

1. That all issues of fact in any civil action when brought in either of the Superior Courts of common law, or in any of the County Courts in Ontario, and every assessment or enquiry of damages in every such action, may, and in the absence of such notice as in the next sub-section mentioned, shall be heard, tried and assessed by a Judge of the said Courts without the intervention of a Jury: Provided that if any one or more of the parties requires such issue to be tried or damages to be assessed or enquired of, by a Jury, he shall give notice to the Court in which such action is pending, and to the opposite party, by filing with his last pleading and serving on the opposite party, a notice in writing to the effect following, that is to say: "The Plaintiff (*or one or more of them*) (*or the Defendant or one or more of them, as the case may be,*) requires that the issues in this cause be tried, (*or the damages assessed*) by a Jury;" and a copy of such notice shall be attached to the record. Issues to be tried and damages assessed by Judge alone. Proviso.

2. That the verdict or finding of the Judge by whom any such issue shall be tried or damages assessed, shall have the like effect, as the verdict or finding of a jury, and the like fees and charges shall be payable in respect of the same: Provided that the parties shall be entitled to move against such verdict or finding by motion for non-suit, new trial or otherwise, within the same time, and on the same grounds (including objections against the sufficiency or the erroneous view taken of the evidence) as allowed in cases of trial or assessment by a jury; Verdict of Judge to have like effect as verdict of jury. Proviso.

3. That whenever any one or more of the parties to any such action shall have given such notice, requiring a jury as hereinbefore provided, the cause shall be carried down to trial in the same manner and with the like effect as if this section had not been passed: Provided always, that it shall be competent for the parties present at the trial to consent that the said notice shall be waived, and the case tried or damages assessed, by the Judge, Effect of notice requiring a jury. Proviso.

Proviso as to  
Judge direct-  
ing trial by  
jury.

Judge, and to endorse a memorandum of such consent upon the record, and thereupon the said Judge shall proceed to the trial of the issues or assessment of the damages without the intervention of a jury: Provided always, that it shall be competent for the Judge in his discretion to direct, that notwithstanding anything hereinbefore contained, any such action shall be tried or the damages assessed by a jury.

Clauses of  
chap. 31, Con.  
Stat. U. C.,  
repealed.

**19.** Sections ten, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six and one hundred and thirty-seven of the said Act, entitled *An Act respecting Jurors and Juries*, are hereby repealed.

29 Vict. chap.  
54, sec. 51  
amended.

**20.** Section fifty-one of the said Act as amended by the Act passed in the twenty-sixth year of Her Majesty's Reign, chapter forty-four, entitled "An Act to amend the Consolidated Act of Upper Canada intituled An Act respecting Jurors and Juries," is hereby further amended by inserting next after the words "Deputy Sheriff of the county" in the fifth section of the said last mentioned Act, the words "and the Junior Judge of the County Court, and the Mayor of any city situate in such county."

Interpreta-  
tion of certain  
words.

**21.** The words "The Governor" in section fifty-eight of the said Act, shall be held to mean "The Lieutenant Governor of this Province," and the words "The Official Gazette of the Province" and "The Gazette" in the said section, shall be held to mean "The Ontario Gazette."

#### CITY OF TORONTO RE-UNITED TO THE COUNTY OF YORK.

Certain sec-  
tions of 24  
Vic., chap. 53,

**22.** Sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen and fifteen, of the Act of the Parliament of the late Province of Canada, passed in the twenty-fourth year of Her Majesty's reign, chapter fifty-three, entitled "An Act to provide for the separation of the City of Toronto from the United Counties of York and Peel for certain judicial purposes," and also the Act passed in the twenty-fifth year of Her Majesty's reign, chapter twenty-four, entitled "An Act to explain the Act to provide for the separation of the City of Toronto from the United Counties of York and Peel," are hereby repealed from the time this Act shall take effect; and the City of Toronto shall thenceforth, for judicial purposes, be re-united to and be part of, the County of York.

and of 25 Vic.,  
chap. 24 re-  
pealed.

Condition of  
existing re-  
cognizances.

**2.** All recognizances conditioned that any person, whether as witness, prosecutor, defendant or otherwise, shall appear at any Recorder's Court of any city, to be held next after the time this Act shall take effect, shall be obligatory to compel the appearance

pearance of such party at the Court of General Sessions of the Peace of the county in which the city is situate, to be held next after this Act shall take effect, and the conditions of all such recognizances shall be construed as if so expressed; and all recognizances conditioned that any person, whether as witness, prosecutor, defendant or otherwise, shall appear at any sitting of the Court of Oyer and Terminer or General Gaol Delivery for the County of the City of Toronto, to be held next after this Act shall take effect, shall be obligatory to compel the appearance of such party at the sitting of the Courts of Oyer and Terminer and General Gaol Delivery for the County of York, which shall be held next after the passing of this Act, and the condition of all such recognizances shall be construed as if so expressed.

**23.** Nothing herein contained shall render invalid any indictment, information, action or proceedings heretofore prosecuted, had, taken or pending in any sitting of the Courts of Assize and *Nisi Prius*, Oyer and Terminer or General Gaol Delivery for the County of the City of Toronto; but all such indictments, informations, actions and proceedings shall be transferred to, and may be continued, prosecuted and proceeded with, in the Courts of Assize and *Nisi Prius*, Oyer and Terminer and General Gaol Delivery for the County of York.

Former proceedings not to be invalid.

**24.** Nothing in this Act contained shall alter or affect the existing arrangements between the City of Toronto and the County of York respecting the use of the gaol.

Existing gaol arrangements not affected.

**25.** All enactments inconsistent with any of the provisions of this Act are hereby repealed, but no Act previously repealed shall be thereby revived.

Inconsistent enactments repealed.

**26.** This Act shall take effect from and after the first day of February next.

Commencement.

#### FORM A.

And the plaintiff, in order to expedite proceedings in this case, having elected to try the issues (*or* assess the damages *or* as well to try the issues as to assess the damages, *as the case may be*) at the sittings of the County Court of the County of \_\_\_\_\_ to be held at \_\_\_\_\_ in the said County on the day of \_\_\_\_\_, 18\_\_\_\_, the said issues will be tried (*or* the said damages will be assessed, *or both, as the case may be*) at the said sittings accordingly.

#### FORM B.

And the Jury (*or* Judge) at the said County Court found that



that (*stating the finding on the issues, or*) and the Jury (*or Judge*) at the said County Court assessed the damages of the plaintiff at \_\_\_\_\_ over and above his costs; therefore it is considered &c., (*as the case requires*).

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FORM C.

And the plaintiff, in order to expedite proceedings in this case, having elected to try the issues (*or assess the damages, or both, as the case may be*) at the sittings of Assize and *Nisi Prius* to be holden at \_\_\_\_\_ in and for the County of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the said issues will be tried (*or the said damages will be assessed, or both, as the case may be*) at the said sittings accordingly.

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FORM D.

And the Jury (*or Judge*) at the said sittings of Assize and *Nisi Prius* found that (*stating the finding on the issues or*) and the Jury (*or Judge*) at the said sittings of Assize and *Nisi Prius* assessed the damages of the plaintiff at \_\_\_\_\_ over and above his costs; therefore, &c., (*as the case requires*).

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CAP. VII.

An Act to alter the Law of Dower and to regulate proceedings in actions for the recovery of Dower in Upper Canada.

[Assented to 19th December, 1868.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Chap. 28, Con.  
Stat. U. C.,  
and chap. 40,  
24 Vic., re-  
pealed.

1. The twenty-eighth chapter of the Consolidated Statutes of Upper Canada, entitled: *An Act respecting the procedure in Actions of Dower*, and the Act passed in the twenty-fourth year of Her Majesty's Reign, entitled: *An Act for the better assignment of Dower in Upper Canada*, are repealed upon, from and after the day this Act shall come into force.

Actions of  
dower gov-  
erned by this  
Act.

2. All actions of right of dower or of dower *unde nihil habet* shall be brought and carried on according to the provisions of this Act.

3. Dower shall not be recoverable out of any separate and distinct lot, tract or parcel of land, which, at the time of the alienation by the husband or at the time of his death, if he died seized thereof, was in a state of nature, and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this shall not restrict or diminish the right to have woodland assigned to the demandant under the thirty-first section of this Act, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of land assigned to her, of the same lot, tract or parcel.

Dower not recoverable out of land in state of nature when aliened, etc.

4. Every action for dower shall be commenced by writ of summons which shall be addressed to the person in actual possession of the land out of which dower is claimed, and to every other person who is tenant of the freehold of the same land, and in every such writ, and in every copy thereof, the place and county of the residence and abode of each party defendant shall be mentioned, and the land or property out of which dower is claimed shall be described by the number of the lot or otherwise, with reasonable certainty, and such writ shall be tested as in personal actions, and may be according to the form following:—

Action to be commenced by summons to party in possession.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

Form of summons.

To \_\_\_\_\_ of \_\_\_\_\_ *(naming each defendant and the place and county of the residence and abode of each defendant.)*

We command you (or each and every of you) that you render to \_\_\_\_\_, who was the wife of \_\_\_\_\_, now deceased, her reasonable dower which falleth to her of the freehold which was of the said \_\_\_\_\_ her late husband, of and in *(describe the land and property by the number of the lot, or the part of the lot, concession, name of the township, city, town or place, or with such other reasonable certainty as will shew out of what land and property dower is claimed)*, and whereof she complains that you deforce her, or that you appear within sixteen days either to disclaim any right or estate of freehold in the said land and property, or to defend yourself against her claim.

Witness, &c.

5. Every such writ shall bear date on the day on which it is issued, and shall be issued out of the proper office, in the county wherein the lands lie, and shall be in force for six months, and shall be returnable on the sixteenth day after service thereof, and shall be indorsed with the name and place of abode of the Attorney suing out the same, or (if no Attorney) the name and residence of the demandant shall be indorsed thereon

Date of writ, whence issuable and when returnable.

thereon in like manner, as the indorsements on writs of summons in personal actions; and the same proceedings may be had to ascertain whether the writ was issued by the authority of the Attorney whose name appears indorsed thereon, and who the demandant, is and her abode, and as to the staying proceedings upon writs issued without authority as in personal actions.

Notice indorsed thereon.

**6.** On every such writ and on each copy thereof shall be indorsed a notice addressed to the defendants, which may be to the effect following:—"You are served with this writ to the intent that you may enter an appearance and denial that you are tenant of the freehold of the lands mentioned in this writ, or that you may enter only an appearance; and take notice that unless within sixteen days of the service hereof, you enter an appearance with or without such denial, the demandant will have a right to sign judgment to recover as against you the dower claimed with costs of suit."

Where demandant claims damages for detention, etc.

**7.** In case the demandant claims damages for detention of her dower, such notice shall contain a further statement that the demandant claims damages for the detention of her dower from some day to be stated in the notice.

Defendant may appear, and deny tenancy, etc.

**8.** Any defendant named in the writ may appear within the time appointed, and, with the appearance, may file a notice addressed to the demandant setting out that he denies that he is tenant of the freehold of the lands mentioned in the writ, which denial shall as against that individual defendant be taken to admit the claim of the demandant to dower as stated in the writ.

Effect of appearance without denial.

**9.** Any defendant named in the writ may appear within the time appointed, and, by filing an appearance without such denial, shall be taken to admit that he is tenant of the freehold, and shall not afterwards be allowed to deny the same.

Tenant in possession, not also tenant of freehold, to notify landlord.

**10.** Every tenant in possession, who is not also tenant of the freehold, and who is served with a writ under this Act, shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years' improved rent of the premises in the possession of such tenant, to the person under whom he entered into possession, to be recovered by action of debt to be brought in either of the Superior Courts of Common Law in Ontario.

Penalty.

Landlord may apply to Court to be substituted as defendant.

**11.** The landlord or other person under whom such tenant, as is mentioned in the next preceding section, holds or entered into possession, may, if he has not been served with the writ of dower, apply to the Court or a Judge upon affidavit, that he is tenant of the freehold, and is advised and believes that there is good ground for disputing the demandant's claim to dower, and the Court or Judge may, after summons to or rule upon the demandant,



demandant, order that such applicant be substituted as defendant in the action, in lieu of the tenant in possession, upon such conditions as shall to the Court or Judge appear just.

**12.** If no person be in actual occupation of the lands of which the demandant claims dower, the writ shall nevertheless be served on the tenant of the freehold, who shall be named therein. If no person in actual occupation how writ served.

**13.** The writ of summons may be served in Ontario, and the service shall be personal whenever that is practicable, but the demandant may, on affidavit, apply from time to time, either to the Court out of which the writ issued or to a Judge of either Court in chambers, and if it appear to such Court or Judge that reasonable efforts have been made to effect personal service, and either that the writ has come to the knowledge of defendant, or that he wilfully evaded service of the same, and has not appeared thereto, such Court or Judge may, by rule or order, grant leave to the demandant to proceed as if personal service had been effected, subject, however, to such conditions as to the Court or Judge seem fit. Writ to be served personally except in certain cases.

**14.** In all cases where the tenant of the freehold resides out of Ontario, the demandant may issue a writ of summons in the form above set forth by giving a sufficient number of days, not less in any case than twenty-one, for the defendant to appear, according to the distance of the place of the defendant's residence, and having due regard to the means of and reasonable time for postal or other communication; which writ of summons shall bear the same indorsement and notice or notices as the writ of summons hereinbefore set forth, making such changes as the nature of the case renders indispensable. How writ served where tenant resides out of Ontario.

**15.** Upon the Court or Judge being satisfied that such writ has been personally served upon the defendant, or that reasonable efforts have been made to effect personal service thereof on the defendant so resident out of Ontario, and that it came to his knowledge, and that he has not appeared, such Court or Judge may, from time to time, direct that the demandant may proceed in the action in like manner as if the defendant had been served under this Act in Ontario, subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed to the defendant to appear being reasonable, and to the other circumstances of the case. Proceedings where writ served or reasonable efforts to serve defendant have failed, etc.

**16.** Any defendant named in the writ may, within the time appointed, file an appearance and acknowledgment that he is tenant of the freehold of the land named in the writ, together with his consent that the demandant may have judgment for her dower therein, and may take the proceedings authorized by this Act to have the same assigned to her, unless the parties shall otherwise agree, and he shall forthwith serve the demandant. Defendant may file appearance and acknowledge tenancy.



**20.** Special cases may be stated by leave of the Court or a Special cases. Judge in like manner as in other actions.

**21.** In estimating damages for the detention of dower or the yearly value of the lands, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the lands by the husband, or after the death of the husband, shall not be taken into account; but such damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of land in the particular locality.

Mode of estimating damages for detention of dower, etc.

**22.** No action of dower shall be brought but within twenty years from the death of the husband of the demandant.

Time for bringing action.

**23.** No such action shall be hereafter maintained, in case the demandant has joined in a deed to convey the land or to release her dower therein to a purchaser for value, although the acknowledgement required by law at the time may not have been made or taken, or though any informality may have occurred or happened in the making, taking or certifying such acknowledgment.

Case where action not to be maintained.

**24.** All actions of dower which shall be pending at the time this Act shall come into force, may be continued and carried on to judgment in like manner as if this Act had not been passed.

Pending actions may be continued

**25.** Unless where it is in this Act expressly declared to the contrary, costs shall be taxed and allowed to and be recoverable by either party in an action of dower, in like manner as in personal actions, and writs of execution to levy the same with damages, where damages have been adjudged, may be sued out and executed as in personal actions.

When costs recoverable.

**26.** After judgment has been rendered in the demandant's favour to recover dower, whether with or without costs or damages, she shall be entitled to sue out a writ of assignment of dower, founded upon such judgment, directed to the sheriff of the county in which the lands lie, in which writ shall be set forth the lands out of which the demandant has recovered judgment to recover her dower.

Effect of judgment for demandant.

**27.** The sheriff, on receipt of such writ, shall, by writing under his seal of office, appoint two resident freeholders of his county who are rated on the assessment roll for real estate of a value not less than two thousand dollars each, and a licensed deputy provincial surveyor, and each of whom would in other respects be eligible to serve as a juror between the parties named in the said writ, to be commissioners to admeasure the dower,

Sheriff to appoint commissioners to admeasure the dower, etc.



dower, and the sheriff shall, in such writing, set out a copy of the writ of assignment, and shall name therein a day on or before which the commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them.

Provision in case of death, etc., of commissioners.

**28.** In case of the death of, or refusal by, any or all of the commissioners so appointed, the sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of such as die or refuse.

Oath of commissioners.

**29.** Every commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an affidavit in the form or to the effect following, which oath any person duly authorized and appointed to take affidavits in the Superior Courts of Common Law, is hereby empowered to administer; and the said commissioners shall annex to their report the affidavits sworn by them, and return them to the sheriff.

Form of oath.

"I \_\_\_\_\_, do swear that I am not of kin to the  
"demandant (*naming her*) nor to the defendants (*naming him*  
"or *them*) nor in any way interested in the lands out of which  
"the assignment of dower is to be made by me, and that I will  
"honestly, impartially, and to the best of my skill and ability,  
"execute and perform the duties imposed upon me by the  
"appointment of \_\_\_\_\_ Esquire, sheriff  
"of the county of \_\_\_\_\_, as a commissioner for  
"the admeasurement of dower between the said demandant  
"and the said defendants according to law."

Commissioners when sworn to be officers of the Court.

**30.** After taking and subscribing such affidavit, the commissioners and each of them shall, for all purposes in the fulfilment of the duties by law required of them, be considered as officers of the Court out of which the writ of assignment issued, and shall be entitled to the same immunities and protection and be subject to the same liabilities and proceeding as a sheriff, in the discharge of his duty.

Their duties.

**31.** It shall be the duty of the commissioners :

To admeasure dower by bounds, etc. ;

(1.) To admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third of the lands and premises mentioned in the writ of assignment, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the lot or parcel of land and premises mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on such lands and premises;

ascertain improvements, etc. ;

(2.) To ascertain and determine what permanent improvements have been made upon such lands and premises since the death of the demandant's husband, or since the time her said husband alienated

alienated the same to a purchaser for value, and if it can be done they shall award the dower out of such part of the lands as do not embrace or contain such permanent improvements, but if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the demandant in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements.

(3.) If, from peculiar circumstances, such as there being a mill or mills or manufactory upon the land, the commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon, and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the sheriff, they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same, such evidence to be reduced to writing and taken upon oath (which any one of the commissioners is hereby authorized to administer), and to be subscribed by the witness examined.

and, where they cannot assign bounds, etc., to assess a yearly sum.

Evidence to be on oath.

(4.) Such yearly sum shall be a lien upon the lands mentioned in the writ of assignment, unless the commissioners specially direct otherwise and make the same issuable and payable out of some specific portion of such lands, and the same shall be recoverable by distress as for rent or by action of debt against the tenant of the freehold for the time being.

Such sum to be a lien on lands, unless otherwise directed.

(5.) The report of the commissioners shall be in writing, subscribed by them and directed to the sheriff and shall contain a full statement of their proceedings, and, where the dower is assigned by metes and bounds, shall distinctly point out and describe the same and the posts, stones or other monuments designating the boundaries, and, for the purpose of planting and marking such posts, stones or monuments, they may, if necessary, employ chain-bearers and labourers.

Report of commissioners.

**32.** The sheriff may, in his discretion, upon the request of the commissioners, enlarge the time for making their report, for not more than ten days, and he shall, within twenty-four hours after the receipt thereof, endorse thereon the day and hour of such receipt, and he shall then forthwith return the writ of admeasurement of dower, together with the report and all papers annexed thereto, to the office wherein the suit was commenced and carried on, and the Deputy Clerk of the Crown, into whose office such writ and other papers have been returned, shall, on the application of either party, transmit the same to the proper principal office in Toronto, in like manner, and on the same conditions

Sheriff may enlarge time for report.

Report to be returned to deputy clerk of Crown.

ditions as he is required to transmit any record of *Nisi Prius* and subject to the same liabilities, in case of his default.

Either party  
may apply to  
set aside re-  
port.

**33.** Either party may, after the expiration of ten days from the filing of the sheriff's return to the writ of assignment, provided such ten days have elapsed before the first day of the term next after such filing, and if not, then within the first four days of the succeeding term, apply for, and the Court may grant, a rule calling upon the opposite party to shew cause why the commissioners' report should not be set aside upon grounds apparent on the report and papers filed therewith, and upon such other grounds as the Court may see fit, the same being supported by affidavit and every such ground being set forth in the rule; and the Court after hearing the parties may order the report to be varied or amended, if in their judgment they have sufficient matter before them to amend by, or may annul and set aside the report and may appoint three new commissioners or direct that the sheriff shall do so, and such new commissioners shall have the same powers and execute the same duties and be subject to the same conditions and responsibilities as are in that behalf hereinbefore expressed, and the report of such new commissioners shall be treated as if no other report had been previously made and shall be dealt with and proceeded upon accordingly.

Order of Court  
thereon.

Effect of re-  
port being  
moved against  
for miscon-  
duct, etc.

**34.** If the report is moved against upon the ground of any misconduct or fraud on the part of the commissioners, the Court may, in its discretion, make them parties to the rule, and if wilful misconduct or fraud be established in the opinion of the Court, the report may be set aside and the commissioners be adjudged to pay to the parties injured all the costs which have been incurred and have been rendered useless by such misconduct or fraud, and all the costs of the rule to set aside the report, and such payment may be enforced by the like process and proceedings as are or may be in use to compel a sheriff to pay costs of any rule or summary proceeding against him.

Costs of rule.

**35.** The rule to set aside the report may be discharged with or without costs, and the Court may order the party at whose instance, or on whose complaint or representation, the commissioners may have been made parties to the rule, to pay such commissioners their costs of answering the same, and if the rule be discharged, or if the report be not moved against within the proper time, or if the Court refuse to grant a rule to shew cause, the report shall thenceforth be final and conclusive on all parties to the dower action, and a copy of such report certified by the Clerk of the Crown, under the seal of the Court, shall be registered in the Registry office of the county or place where the lands lie, for which service the Registrar shall be entitled to receive one dollar.

Copy of report  
when final to  
be registered.

Demandant

**36.** After such registration the demandant shall be entitled



tled to sue out a writ directed to the proper sheriff, commanding him to put her into possession of the lands and premises assigned and admeasured to her for her dower, and to levy all such costs as by the judgment and any rule of Court, or either, shall have been awarded to her against the tenant.

may then sue out writ of possession.

**37.** In case judgment shall have been given against the demandant and costs be awarded to be paid by her to the defendant by such judgment, or by any rule of Court, such defendant may issue a writ of *fiery facias* to recover the same.

If judgment against demandant, defendant may issue *fi. fa.*

**38.** In case it is desired by either party to produce any witnesses before the commissioners, such party may, on application to the Court out of which the writ of assignment issued, or to any Judge of either of the Superior Courts of Common Law, on affidavit that the evidence of any such witness is necessary, obtain an order commanding the attendance of any such witness before the said commissioners, and, if in addition to the service of such order, an appointment of time and place of attendance in obedience thereto, signed by one of the commissioners, be served on the person whose evidence is required either with or after the service of the order, non-attendance shall be deemed a contempt of Court, and shall be punishable accordingly, but the person required to attend, shall be entitled to be paid the same fees, allowance and conduct money as if he had been subpoenaed as a witness in an ordinary suit, and no witness shall be obliged to attend more than two consecutive days.

Mode of procuring attendance of witnesses before commissioners.

**39.** The commissioners shall be entitled to receive from the demandant the sum of four dollars for each day's attendance, not, however, to exceed two, and may also charge at the rate of twenty cents for every hundred words for drawing up their report, and ten cents for every hundred words of each copy furnished by them to either party.

Commissioners' fees.

**40.** The demandant shall pay the cost of suing out, and the cost of the commissioners in executing the writ of assignment of dower, and making the report thereof, but each party shall pay his own costs of witnesses, or of attorney, or counsel, attending before the said commissioners.

By whom costs to be paid.

**41.** The demandant and the tenant of the freehold may, by any instrument under their respective hands and seals, executed in the presence of two credible witnesses, agree upon the assignment of dower, or upon a yearly sum, or a gross sum to be paid in lieu and satisfaction of dower, and a duplicate of such instrument proved by the oath of one of the subscribing witnesses, which oath any commissioner duly appointed for taking affidavits may administer, shall be registered in the Registry office of the county where the lands lie, and shall entitle the demandant to hold the land so assigned to her, against the assignor

Demandant and tenant may agree upon assignment, etc.

signor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in any Court having jurisdiction to the amount, the annual or other sum agreed to be paid to her by such tenant of the freehold, and such instrument so registered shall be a lien upon the land for such yearly or other sum, and shall be a bar to any other action, suit or proceeding by the demandant for dower in the lands mentioned therein.

Sections 26 to 40 not to affect certain cases.

**42.** The several clauses of this Act, numbered from twenty-six to forty, both inclusive, shall not apply to or affect cases in which the right to dower became consummate by the death of the husband, before the eighteenth day of May, which was in the year of our Lord one thousand eight hundred and sixty-one.

Mode of proceeding where not prescribed.

**43.** In all cases not otherwise provided for by this Act, the pleadings and proceedings shall be regulated by the law as it was in force in Upper Canada, relative to suits and actions of dower, before the tenth day of August, which was in the year of our Lord one thousand eight hundred and fifty.

Title of Act.

**44.** This Act may be cited as *The Dower Act of Ontario*, and shall take effect upon, from and after the first day of February next.

## CAP. VIII.

### An Act to amend the Law as to Wills.

[Assented to 19th December, 1868.]

Preamble.

**WHEREAS** it is expedient to amend the law as to wills: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

How will to be construed.

**1.** Every will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will.

Subsequent conveyance only to defeat will as to the property conveyed.

**2.** No conveyance or other Act made or done subsequently to the execution of a will, of or relating to any real or personal estate therein comprised (except an Act by which the will is revoked), shall prevent the operation of the will with respect to such estate or interest in such real or personal estate as the testator shall have power to dispose of at the time of his death.

Will

**3.** Every will shall be revoked by the marriage of the testator,

tor, except a will made in exercise of a power of appointment, revoked by marriage, except made in exercise of a power; when the real or personal estate thereby appointed would, in default of such appointment, pass to the testator's heir, executor or administrator, or the person entitled as the testator's next of kin under the statute of distributions.

4. No will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances. but not by change in circumstances;

5. No will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed according to law, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is by law required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some one in his presence and by his direction, with the intention of revoking the same. nor otherwise than as aforesaid, except by subsequent valid will, etc.

6. This Act shall not apply to the will of any person who is dead before the first day of January, one thousand eight hundred and sixty-nine. Party dying before 1st Jan., 1869.

## CAP. IX.

An Act to amend the Registry Act, and to further provide as to the Certificates of Married Women, touching their consent as to the execution of Deeds of Conveyance.

[Assented to 19th December; 1868.]

**W**HEREAS it is desirable to amend the Registry Law of Preamble. Ontario, so far as to give certainty to the right of married women jointly with their husbands to execute certificates of discharge of mortgage: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. From and after the passing of this Act, when any registered mortgage of lands wherein a married woman may happen to be a mortgagee therein, or wherof the assignee is a married woman, shall have been satisfied, the Registrar, on receiving a certificate, executed jointly by such married woman and her husband, in the form prescribed by the Registry Act of Ontario, shall register such certificate in the same manner provided by the said Act for registering certificates of discharge of mortgage, and such certificate shall be deemed a discharge of such mortgage to the same effect as any other certificates registered under the said Act; How mortgages to married women discharged.



Act; and it shall not be necessary to produce any certificate of such married woman having been examined before any Judge or Justices of the Peace touching her consent therein in anywise; nor shall such examination be necessary.

One certificate  
may embrace  
several names.

2. In case more than one married woman executes the same deed of conveyance mentioned and referred to in the second section of chapter eighty-five of the Consolidated Statutes of Upper Canada, the Judge or Justices of the Peace therein mentioned, may include the examination and names of all or any number of such married women in one certificate in the form mentioned and set out in the said section as far as applicable.

## CAP. X.

### An Act to make better provision for the dealing by Executors and Administrators with Mortgages.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS it is expedient to make better provision for the dealing by executors and administrators with mortgages: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Sec. 5, chap.  
87, Con. Stat.  
U. C. repealed.

1. The fifth section of the Act chaptered eighty-seven of the Consolidated Statutes of Upper Canada is hereby repealed.

Executors of  
mortgages  
may assign,  
etc.

2. When any person entitled to any freehold land by way of mortgage has departed this life, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the legal estate in the land; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the estate, or any part of the mortgaged lands without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the person having the legal estate.

## CAP. XI.

An Act to amend Chapter One hundred and nineteen of the Consolidated Statutes of Upper Canada, so far as it relates to Fees to Sheriffs.

[Assented to 19th December, 1868.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Clause number two, of chapter one hundred and nine-  
teen of the Consolidated Statutes of Upper Canada, entitled, *An Act respecting the Fees of Counsel, and other Ministers of Justice*, is hereby repealed.

Sec. 2, chap.  
119, Con. Stat.  
U. C. re-  
pealed.

2. The table of fees appended to this Act, as made and es-  
tablished by the Judges of the Superior Courts of Common  
Law at Toronto, by rule of Court of Easter Term, in the thirty-  
first year of Her Majesty's reign, dated the sixth day of June,  
one thousand eight hundred and sixty-eight, shall upon and  
from and after the first day of January one thousand eight  
hundred and sixty-nine, be and constitute the fees to be taken  
by sheriffs for, or in respect of, any criminal business by them  
done and transacted in either of the said Courts in criminal  
prosecutions, and in all matters, causes and proceedings which  
regard the Queen's revenue, and in all prosecutions, matters and  
proceedings under any Commission or Court of Oyer and  
Terminer and General Gaol Delivery, until otherwise provided  
by the Legislature.

Fees in  
criminal  
matters.

3. The schedule of fees established by the said Courts, and  
in force at the passing of this Act, to be taken by constables,  
coroners, Clerks of the Peace and criers, in respect of any such  
matters, prosecutions and proceedings, as in the said clauses  
mentioned, shall remain and continue in force until otherwise  
provided by the Act of the Legislature.

Fees to  
coroners, etc.

TARIFF OF FEES REFERRED TO IN SECTION TWO.

IN THE COURT OF QUEEN'S BENCH,

AND

IN THE COURT OF COMMON PLEAS.

PROVINCE OF ONTARIO,

Easter Term, 31st Victoria,

Saturday, the Sixth day of June, A.D. 1868.

It is ordered that a certain Rule of the Court of Queen's  
Bench

Bench of Upper Canada, now Ontario, made in Michaelmas Term, 9th Victoria, on Saturday, the fifteenth day of November, A.D. 1845, be amended, by striking out so much of the Tariff of Fees annexed thereto as applies to Sheriffs, and by substituting therefor the Tariff of Fees hereto annexed.

(Signed,) WM. B. RICHARDS, C. J. C. P.

do JOHN H. HAGARTY, J.

do ADAM WILSON, J. C. P.

do JOS. C. MORRISON, J.

Certified,

L. HEYDEN,

*Clerk of the Crown and Pleas.*

#### TARIFF OF FEES.—CRIMINAL JUSTICE.

	\$	cts.
Notice of appointment to the Associate Justices of Oyer and Terminer, each.....	0	50
Attending the Assize, per diem.....	5	00
Attending Quarter Sessions, per diem.....	4	00
Summoning each Grand Jury for the Assizes or Quarter Sessions.....	12	00
Summoning each Petit Jury for the Assizes or Quarter Sessions.....	24	00
For every Prisoner discharged from Gaol, having been committed by warrant for Trial at the Assizes, Quarter Sessions, Mayor's or Recorder's Courts.....	1	00
Bringing up each Prisoner for arraignment, trial and sentence—in all for each Prisoner, whether convicted or acquitted.....	2	00
Drawing Calendar of Prisoners for Trial at the Assizes, including copies.....	5	00
Advertising the holding the Assizes.....	4	00
Advertising the holding the Quarter Sessions.....	2	00
Every Annual or General Return required by Law or by the Government respecting the Gaol or the Prisoners therein.....	5	00
Every other Return made to the Government.....	4	00
Every Return to the Sessions required by Statute, or by order of the Court.....	2	00
Drawing Calendar of Prisoners for Trial at the Quarter Sessions or Recorder's Court, including copies.....	3	00
Returning Precepts to the Assizes or Sessions.....	4	00
Conveying Prisoners to the Penitentiary or Reformatory, or to another County (exclusive of disbursements) for each day necessarily employed.....	6	00
Arrest		



Arrest of each individual upon a warrant, to be paid out of the Public Funds or by the party, ( <i>as the case may be</i> ).....	\$ 2 00
Serving subpoena upon each person, to be paid out of the Public Funds, or by the party ( <i>as the case may be</i> )...	0 50
Travelling in going to execute warrant or serve subpoena, 10 cts. per mile, and the same charge per mile actually travelled in returning with a prisoner; where the service has not been effected, the Justices in Session to be satisfied that due diligence has been used, to be paid out of the Public Funds or by the party, ( <i>as the case may be</i> ).	
Conveying Prisoners on attachment, Judge's order, or <i>Habeas Corpus</i> to another County, exclusive of disbursements where no charge allowed by Law, for each day necessarily employed, to be paid out of the Public Funds or by the party, ( <i>as the case may be</i> ).....	6 00
Making return upon attachment or writ of <i>Habeas Corpus</i> , to be paid out of the Public Funds, or by the party, ( <i>as the case may be</i> ).....	2 00
Levying fines or issues on recognizances estreated, or other process, £5 per £100 on the first £100 of the sum levied, exclusive of mileage, at 10 cts. per mile, to be levied under Con. Stat. Upper Canada, Chapter 119, Sec. 3, and on all sums above £100 the same allowance as on executions in civil proceedings.	
Carrying into execution the sentence of the Court in Capital cases :—all such sums as shall be unavoidably disbursed, to be taxed by the Court or Judge who passed the sentence.	
Attending and superintending the execution in such cases.....	20 00
Summoning each Constable to attend the Assizes or Quarter Sessions, exclusive of mileage at 10 cts. a mile.....	0 50
Keeping a Record of Jurors who have served each Court.	2 00
All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary, to any other District, or elsewhere, or for other purposes in the discharge of the duties of his office (where not provided for by law nor hereinbefore specifically,) to be rendered in account in detail, with proper vouchers, to the satisfaction of the Justices in Sessions, to be by them allowed.	

## CAP. XII.

An Act to amend Chapter Twelve of the Statutes of Ontario, entitled "An Act for the better protection of Game in the Province of Ontario."

[Assented to 19th December, 1868.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Sec. 2, chap.  
12, 31 Vic.,  
amended.

1. In section two of chapter twelve of the Statutes of the Legislature of this Province, passed in the thirty-first year of Her Majesty's reign, the word "any" is hereby struck out, and the words "the succeeding" inserted instead thereof.

Sec. 3, chap.  
12, 31 Vic.,  
amended.

2. In section number three of said Act, the words "or Hare" are hereby struck out, and a new clause inserted in lieu thereof, to the following effect : "No hare shall be hunted, taken or killed, between the first day of March and the first day of September in any year."

Sec. 5 amend-  
ed.

3. In section five the words "first day of September" are hereby struck out, and "twelfth day of August" inserted instead thereof.

Sec. 6 repealed  
and new sec.  
substituted.

4. Section six is hereby struck out and the following inserted instead thereof : "No wild swan, goose or any description of wild duck shall be hunted, taken or killed, between the fifteenth day of April and the fifteenth day of August in any year."

Sec. 8 amend-  
ed.

5. In section number eight, after the word "batteries," "night-lights" are hereby inserted.

Sec. 15 amend-  
ed.

6. Section fifteen of the said Act is amended by striking out the word "November" and inserting the word "October" in lieu thereof.

## CAP. XIII.

## An Act to divide the Township of Garafraxa into two Municipalities.

[Assented to 19th December, 1868.]

WHEREAS certain of the inhabitants of the township of Garafraxa, in the County of Wellington, have, by their petition, represented that it would greatly promote the prosperity of the said township to divide the same into two distinct municipalities: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Upon, from and after the first day of January next after the passing of this Act, that part of the present township of Garafraxa lying to the south-west of the road allowance between the eighth and ninth concessions, shall form and become, for all municipal and election purposes, a separate and independent township and municipality to be called the township of West Garafraxa, and shall be such separate municipality for all municipal, school, judicial and other purposes whatsoever, in the same manner to all intents and purposes as though the said western section of the township of Garafraxa had never formed part of the said township; and the said township of West Garafraxa hereby erected, shall enjoy and exercise all the rights, powers and privileges conferred by any Acts or laws whatsoever upon township municipalities in the Province of Ontario.

2. The part of the township of Garafraxa, as heretofore constituted, lying to the north-east of the said road allowance, shall, on and after the said day, constitute a separate township municipality by the name of the township of East Garafraxa, and shall enjoy and exercise all the rights and privileges conferred upon township municipalities by the Acts and laws in force in the Province of Ontario.

3. The fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third and sixty-fourth sections of the Act respecting the Municipal Institutions of Upper Canada, shall apply to the division of the said township as heretofore constituted.

4. For the purposes of the first municipal elections after the passing of this Act, William McCormack shall act as Returning Officer for the township of East Garafraxa, and Peter Rennie shall act as Returning Officer for the township of West Garafraxa, and the said William McCormack and Peter Rennie respectively, shall procure for the purpose of such election the necessary copies of so much of the collector's roll



roll of the township of Garafraxa as relates to the inhabitants of the said new townships respectively as constituted by this Act; and the first municipal election for the township of East Garafraxa shall be held at such place in that township as the Returning Officer therefor shall appoint by public notice, posted up at not less than four public places in the township, at least eight days before the election; and the first municipal election for the township of West Garafraxa, shall be held at such place as the Returning Officer therefor shall appoint in the manner aforesaid.

Nomination  
and polling  
days.

5. And to enable the municipal elections to take place so as to give effect to this Act, the first nominations shall be made on the first Monday in January next, and the polling on the Monday following, in both municipalities.

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## CAP. XIV.

An Act to Explain the thirty-sixth section of the Hamilton Debentures Act of 1864, and to Legalize, if necessary, the application of the rates levied by the City of Hamilton under the By-Laws referred to in that section.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS the corporation of the city of Hamilton have, by their humble petition in that behalf, represented that at the time of the passing of the Hamilton Debentures Act of 1864, the taxes for the years one thousand eight hundred and sixty-two and one thousand eight hundred and sixty-three had not been collected, and that being desirous of enforcing the same from the persons who had been assessed therefor, and who would have been liable to pay the same if they had been collected in those years, they applied for authority so to do, and that the said thirty-sixth section was accordingly introduced into the said Act solely for that purpose; and whereas it was the intention of the said corporation to levy the said rates, for the purpose of meeting not only the expenses and other charges imposed upon them by the said Act, but also all other sums which might be required for the government of the municipality, and all other the lawful purposes of the said city, and that they did accordingly, after paying and discharging the said charges, apply the surplus to the general purposes of the city, and, among other things, to the repurchase of certain shares in the capital stock of the Great Western Railway which had been previously sold under a decree against the city to satisfy the lien of the debenture holders thereon; and

and whereas doubts have arisen as to their right, under the language of that section, to apply the same to any other purposes than the payment of the said charges, and the interest to become due under the said Act, and also as to the lien reviving in favor of the holders of such debentures; and whereas, at the time of the said sale, stock was retained for such of the debenture holders as did not come in under such decree, and the holders of such debentures have come in under the Hamilton Debentures Act of 1864, and have accepted Great Western Debentures under that Act with a lien on the stock so reserved for them; and it is expedient to remove such doubts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It was, in and by the said section, intended to authorize the application of the said rates, not only to the purposes of the said Act, but to any other purpose within the powers of the corporation to which the city council might think proper to apply the same; and the application of the said rates is hereby confirmed, and the city council authorized to dispose of such repurchased stock free from any lien thereon.

Meaning of  
the Hamilton  
Debentures  
Act of 1864  
declared.

## CAP. XV.

An Act to authorize and empower the Corporation of the City of Kingston to sell and convey certain of their Lands.

[Assented to 19th December, 1868.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The corporation of the City of Kingston is hereby authorized and empowered to dispose of its estate and interest in the following lands, namely, that part of the Market Square, in the said city, being part of the south-west side of the said square, which had been laid out into building lots, leased by the said corporation to certain persons, and now built upon and occupied, and lying between the property of John Breden, Esquire, on its south-east limit, and King Street on its north-west limit, and having the present Market Square on its north-east limit, and Clarence Street on its south-west limit; also lots numbers four hundred and twenty-three, four hundred and twenty-four, four hundred and twenty-nine and four hundred and thirty, lying between Ordnance and Bay Streets, in the said city, reserved as market lots in the original survey, freed and

Corporation  
may dispose  
of lands speci-  
fied;

and exonerated from any public trusts or purposes for which the same may now be held by the said corporation.

and execute conveyances and take mortgages.

2. The said corporation is also hereby authorized and empowered to execute under its corporate seal, and deliver good and valid conveyances of its estate and interest in the said lands, and every part thereof, freed and exonerated as aforesaid, to the purchaser or purchasers thereof, from whom the said corporation may take mortgages to secure the purchase moneys remaining unpaid.

Not to affect rights of other parties, etc.

3. Nothing in this Act contained shall be construed to affect any rights of any other person in respect of the said lands, save any rights growing out of the public trusts or purposes aforesaid.

## CAP. XVI.

An Act to legalize and confirm the Survey made by Alexander Campbell, Provincial Land Surveyor, of that part of the Township of Seymour lying north-east of the River Trent and north-west of Crow River.

[Assented to 19th December, 1868.]

Preamble.

WHEREAS it appears by the petition of the municipal council of the Township of Seymour in the County of Northumberland, and certain owners, proprietors and occupants of lands in the said township, that it was and is doubted whether any actual survey was ever made of that part of the said township of Seymour, lying north-east of the river Trent, and north-west of the Crow river, by William Brown, the Provincial Land Surveyor who surveyed the other parts of the said township; and, in consequence of such doubt, on the application of parties, the Honourable Commissioner of Crown Lands sent one Alexander Campbell to survey and lay out that part of the township into lots, concessions and side line roads; that by the survey and the plans thereof, made by the said Alexander Campbell of that part of the said township, parties have bought and sold lands; settlements and improvements have been made, according to the survey so made by the said Alexander Campbell; and the municipal council of the said township have opened out and made roads on the concession and division lines established thereby; and whereas the petitioners have prayed that the survey so made by the said Alexander Campbell may be legalized, confirmed and established by authority of the Provincial Legislature of this Province, as the true survey of that part of the said township of Seymour effected thereby; and it is expedient to grant their prayer:

Therefore,



Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The survey of that part of the Township of Seymour in the County of Northumberland, which was made by Alexander Campbell, Provincial Land Surveyor, for the purpose of correcting any errors in the proper boundaries and in the correct numbering of the lots in that part of the said Township of Seymour, and for designating the said lots by their proper boundaries and numbers, according to the numbers of lots actually contained in that portion of the said Township of Seymour, a map and report of which survey, hath, by the said Alexander Campbell, been duly returned to the office of the Commissioner of Crown Lands, shall be, and the same are hereby declared to be the true and unalterable survey of that part of the said Township of Seymour to which the said map and report relate, and the lots therein shall severally bear the numbers and boundaries assigned in such survey.

Survey of  
part of Sey-  
mour con-  
firmed.

## CAP. XVII.

### An Act for Incorporating the Ontario Mutual Life Assurance Company.

[Assented to 19th December, 1868.]

WHEREAS Moses Springer, Esquire, M.P.P., Isaac E. Bowman, Esquire, M. P., John Allechin, Esquire, John B. Snyder, Esquire, John W. Walden, Esquire, M. D. and Cyrus M. Taylor have, by their petition, prayed for the incorporation of a Company in the name, style and title of the "Ontario Mutual Life Assurance Company," for the purpose of carrying on a general Life Assurance business on the mutual principle within the Province of Ontario, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The above named petitioners together with such other persons as now are or shall hereafter become members of the said Company, shall be and are hereby ordained, constituted, appointed and declared to be a body politic and corporate in law, in fact and in name, by the name, style and title of "The Ontario Mutual Life Assurance Company," and shall be capable in law of purchasing, holding and conveying any estate, real as well as personal, for the actual use and occupation of the said Corporation, subject only to the rules, regulations, conditions and powers herein set forth and mentioned.

Incorporation.

Location of  
company.

**2.** The head office of the said Company shall be located in the Village of Waterloo, in the County of Waterloo.

Authorized to  
contract for  
life assurance.

**3.** The Corporation, hereby created and constituted, shall have power and authority to make and effect any contract or contracts of Life Assurance with any person or persons, and to transact a general Life Assurance business on the mutual principle, and to perform all other necessary matters and things connected with and proper to promote or carry out the object of the Company: Provided always, that the business of the said Company shall be confined to the Province of Ontario.

Proviso.

May purchase  
and convey  
lands.

**4.** The said Corporation shall be in law capable of acquiring by purchase, lease or otherwise, and of holding absolutely any lands or tenements for their actual use and occupation in the course of their business, and the same may sell, let, convey, transfer and dispose of as to them shall seem expedient: Provided always, that nothing in this Act shall be considered as permission to hold permanently any real estate beyond the annual value of ten thousand dollars; and the Corporation may also hold such real estate as shall have been *bona fide* mortgaged to them by way of security, or conveyed to them in satisfaction of debts or judgments, which shall have been obtained for such debts; and it shall be lawful for the said Corporation to purchase and hold, for the purpose of investing therein any part of their funds or money, any of the public securities of the Dominion of Canada or any of the Provinces forming or to form the said Dominion, and the bonds and debentures of any of the incorporated cities, towns, or municipal corporations of Ontario, and also to sell and transfer the same and again to renew such investments when and so often as due regard to the interest of the said Corporation may require; and also to make loans of the funds of the Corporation on mortgage on real estate at any legal interest with power to receive such interest in advance or otherwise, and the same investments to call in and re-loan as occasion may require: Provided always, that all real estate so mortgaged or conveyed in security as aforesaid shall be sold and disposed of within seven years from the time of its becoming the absolute property of the Corporation.

Proviso.

Provision as to  
investments,  
and as to dis-  
posal of lands.

Proviso.

When policies  
may issue.

**5.** No policy of assurance shall be issued by the said Company until applications have been made and accepted by at least five hundred persons who intend to become members thereof, and have applied for assurance amounting in the aggregate to a sum not less than five hundred thousand dollars.

Company not  
to trade.

**6.** The said Company shall not deal or trade in buying or selling any goods, merchandize or commodities, nor shall the Company or the directors in any way exercise the business of banking.

Every person

**7.** Every person effecting an assurance with the said Com-  
pany

pany shall be a member thereof during the continuance of his insured a policy and no longer. member.

8. The directors of the said Company shall determine the amount of the annual premiums to be paid by the members of the Company, which shall be payable in cash, and in case such annual premiums should at any time prove insufficient to pay the claims upon the said Company arising from the death of any of its members and the ordinary expenses of the Company, then the directors shall be empowered to levy and collect a special assessment upon all the members of the said Company, the said special assessment to be levied upon each member in proportion to his annual premium. Directions to fix premiums.

9. The annual premiums paid, from year to year, by the members of the said Company, in excess of the amount required to pay the claims made upon the Company arising from the death of its members and the expenses of its management, shall constitute a reserve fund, and shall be invested, from time to time, in such securities as aforesaid: Provided that such reserve fund shall not exceed in the whole one hundred and fifty thousand dollars. If premiums exceed requirements to form a sinking fund. Proviso.

10. The property, business and affairs of the Company shall be managed by a Board of six directors, one of whom shall be chosen President, and one may be chosen Vice-President, which Board in the first instance and until others shall be chosen and have accepted office as hereinafter mentioned, shall consist of the persons mentioned in the preamble of this Act as petitioners for the passing thereof; and such directors shall hold office until the election hereinafter provided for shall have taken place. Board of directors and provisional board.

11. The said Company shall hold an annual meeting for the election of directors at such time in each year as may appear most expedient to the Board of directors, of which meeting one month's notice shall be published in at least one local paper, and in the *Ontario Gazette*. Annual election of directors.

12. From and after the first annual meeting for the election of directors, the Board shall consist of six directors, two of whom shall retire annually in rotation, but shall be eligible for re-election. Two to retire annually.

13. Before the first annual meeting for the election of directors, the directors, or a quorum of them, shall determine among themselves by ballot, first, which two of the present directors shall continue in office for one year; and the said two directors, after such ballot, shall be known as standing first on the list of directors; secondly, which two of the present directors shall continue in office for two years; and the said two directors, after such ballot, shall be known as standing second on the list of directors; and the present directors, except the four elected by First directors to decide who shall retire.



by ballot, shall all go out of office at the first annual meeting for the election of directors; and at such meeting there shall be two directors elected who shall continue in office for three years, and shall be known as standing third on the list of directors.

The order in which directors retire.

**14.** The directors shall retire from office in the following rotation; that is to say: two directors at each annual meeting after the first, commencing with the two directors standing first on the list of directors, and in the same manner the two directors standing next on the list of directors at any annual meeting thereafter; and the retiring directors shall always be eligible for re-election: Provided they possess the requisite qualification hereinafter mentioned; and the directors shall hold office for three years, and until the next annual meeting thereafter.

Proviso.

Directors may vote personally or by proxy.

**15.** The election of directors shall be held and made by such members of the Company as attend for that purpose in their own proper persons or by proxy, all of which proxies shall bear date at least one month before the election at which they are used, and be filed with the manager of the Company within the same period; but no agent or sub-agent of the Company shall receive or hold proxies for voting at meetings of the said Company.

Election by ballot.

**16.** The election of directors shall be by ballot; and the persons having the greatest number of legal votes thereat shall be the directors; and at every such election each member of the Company shall be entitled to one vote only.

Qualification of directors.

**17.** Every person elected as a director of the said Company shall be a member thereof, and shall be assured for a sum not less than one thousand dollars.

How vacancies filled.

**18.** If any vacancies happen among the directors during the current year of their appointment, by death, resignation or removal from the Province of Ontario, such vacancies shall be filled for the remainder of the year by a person or persons duly qualified, to be nominated by a majority of the remaining directors, and as soon as may be after the vacancy occurs.

No dissolution for non-election.

**19.** In case any election of directors be not made on the day on which it ought to be made, the Corporation shall not for that cause be dissolved, but the election may be held on any subsequent day within three months from the day appointed for holding the annual election according to the provisions of the by-laws and ordinances of the Corporation, and upon giving notice of such day as hereinbefore provided.

Effect of subsequent election.

**20.** The directors elected at such subsequent day shall have all the powers contained in this Act as if elected on the annual day of election, and shall hold office for the remainder of the current year of their election.

**21.** Every Manager, Secretary and Treasurer, shall, before he enters upon the duties of his office, give bonds to the Company in the sum of not less than two thousand dollars, with one or more sufficient securities, to the satisfaction of the Board of directors, conditioned for the faithful discharge of his duties agreeably to the provisions of this Act and of the by-laws, rules and regulations of the Company made pursuant thereto. Managers, etc., to give security.

**22.** The Board of directors for the time being shall superintend and have the management of the funds and property of and of all matters relating to and not otherwise provided for by the Company. Directors' duties.

**23.** The Board may from time to time— Authority of board.

(1.) Appoint a Manager, a Secretary and a Treasurer, and such other officers, agents and assistants as to them seem necessary ; May appoint officers,

(2.) Prescribe their duties ; prescribe duties,

(3.) Fix their compensation or allowance ; fix compensation,

(4.) Take such security from them as they deem necessary, or as may be required by this Act for the faithful performance of their respective duties ; or take security,

(5.) Remove them at pleasure and appoint others instead ; remove officers,

(6.) Determine the rates of assurance, the sum to be assured on the life of any person, and the sum to be deposited for the assurance thereof ; fix rate of premiums, etc.,

(7.) Direct the making and issuing of all policies of assurance ; issue policies,

(8.) Provide books and stationary and other things needful for the office of the Company and for carrying on the affairs thereof ; provide books,

(9.) Draw upon the Treasurer for the payment of all losses by and for expenses incurred in transacting the concerns of the Company ; pay losses, etc.,

(10.) Hold their meetings quarterly or oftener, if necessary, for transacting the business of the Company ; hold meetings,

(11.) And keep a record of their proceedings. and keep records.

**24.** Two-thirds of the whole number of the Board of directors shall constitute a quorum. Quorum.

**25.** The Board of directors may, from time to time, make and subscribe such by-laws, ordinances, rules and regulations as to them may appear needful and proper respecting the funds and property Board may make by-laws.

property of the Company, the duties of the officers, agents, and assistants thereof for the efficient carrying out of the objects contemplated by this Act and not inconsistent therewith, and all such matters as appertain to the business of the Company, and are not contrary to the laws either of the Dominion of Canada or of the Province of Ontario, and may, from time to time, alter and amend the same.

President to  
give vote and  
casting vote.

26. The President of the Board of directors shall have the right to vote on all questions the same as other directors, and, in case of an equality of votes at any meeting of the Board, he shall have a second or casting vote.

General meet-  
ings.

27. The Board may convene at any time a general meeting of the members of the Company upon an urgent occasion.

Annual state-  
ment of af-  
fairs.

28. The directors of the said Company shall make and furnish to the Lieutenant Governor and to the Legislative Assembly of the Province of Ontario, during the first fifteen days of the first session in each and every year, a full and unreserved statement of the affairs, to be verified on oath, of the said Company, and of its funds, property and securities, shewing (1) the cash in hand; (2) the amount and value of real estate; (3) the amount secured by bonds and mortgages; (4) the amount invested in other securities; (5) the amount of risks outstanding; (6) the amount of losses unpaid, as well as policies paid; (7) the amount due by such Company on securities given by it; and (8) the amount of yearly premiums received.

## CAP. XVIII.

### An Act to amend the Law as to Costs in Suits for Alimony.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS it is expedient to amend the Law as to Costs in suits for alimony: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

No costs to be  
paid *de die in  
diem*;

1. In no suit for alimony shall any costs be ordered to be paid *de die in diem* by the defendant, beyond the amount of the cash disbursements properly made by the plaintiff's solicitor.

nor any costs  
by defendant  
beyond dis-  
bursements.

2. In no suit for alimony, in which the plaintiff fails to obtain a decree for alimony, shall any costs be decreed to be paid by the defendant beyond the amount of the cash disbursements properly made by the plaintiff's solicitor.

CAP.



## CAP. XIX.

An Act further to amend the Act, Chapter Thirty-five of the Consolidated Statutes of Upper Canada, entitled "An Act respecting Attorneys at Law."

[Assented to 23rd January, 1869.]

WHEREAS it is expedient to amend the law respecting Preamble.

Attorneys at Law, by rendering it unnecessary for articulated clerks to keep terms in certain cases: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Notwithstanding anything in the said law contained, it shall not be necessary, in order to the admission and enrolment of any person as an Attorney and Solicitor, that he should have attended the sittings of the Court of Queen's Bench or Common Pleas, during any of the terms thereof. Attendance during term unnecessary.

## CAP. XX.

An Act to amend "The Free Grants and Homestead Act of 1868."

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The seventh section of "The Free Grants and Homestead Act of 1868," is hereby repealed, and the following section is hereby substituted in lieu of the section so repealed, and shall be taken and read as the seventh section of the said Act: "No person shall be located for any land under this Act or the said regulations, unless such person shall be of the age of eighteen years or upwards, nor shall any person be so located for any greater quantity than two hundred acres." Sec. 7, chap. 8, 31 Vic., repealed. No locatee under 18 years of age, etc.

## CAP. XXI.

## An Act respecting Elections of Members of the Legislative Assembly.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Con. Stat.  
Can., chap. 5,  
23 Vic. chap.  
17, and 29 and  
30 Vic. chap.  
13, repealed.

1. Chapter six of the Consolidated Statutes of the late Province of Canada, entitled *An Act respecting Elections of Members of the Legislature*; also an Act passed by the Legislature of the said late Province of Canada, in the twenty-third year of Her Majesty's Reign, chapter seventeen, entitled, *An Act for the more effectual prevention of Corrupt Practices at Elections*; also an Act passed by the said Legislature of the said late Province of Canada, in a session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, chapter thirteen, entitled, *An Act to amend chapter six of the Consolidated Statutes of Canada, intituled "An act respecting Elections of Members of the Legislature,"* and all other acts or enactments conflicting or inconsistent with this Act are hereby repealed, so far as the same relate to the Province of Ontario.

## WHO SHALL NOT VOTE AT ELECTIONS.

Persons dis-  
qualified from  
voting.

2. The Chancellor and Vice-Chancellors of Ontario, the Chief Justices and Judges of the Courts of Queen's Bench and Common Pleas in Ontario, all County Judges, all Recorders of Cities, all Officers of the Customs of the Dominion of Canada, all Clerks of the Peace, County Attorneys, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown and Agents for the sale of Crown Lands, all Postmasters in Cities and Towns, and all Officers employed in the collection of any duties payable to Her Majesty in the nature of duties of excise, shall be disqualified and incompetent to vote at any election; and if any public officer or person mentioned in this section votes at any such election, he shall thereby forfeit the sum of two thousand dollars, and his vote at such election shall be null and void.

Penalty.

Certain officers  
and persons  
not to vote.

3. No Returning Officer, Deputy Returning Officer, Election Clerk or Poll Clerk, and no person who, at any time, either during the election or before the election, is or has been employed at the said election or in reference thereto, or for the purpose of forwarding the same, by any candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk,

Clerk, at any polling place at any such election, or in any other capacity whatever, and who has received or expects to receive, either before, during, or after the said election, from any candidate or from any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatever therefor, shall be entitled to vote at any election.

4. No woman is or shall be entitled to vote at any election. No woman to vote.

#### WHO MAY VOTE AT ELECTIONS.

5. The following persons, and no other persons, being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified under the preceding sections, or otherwise by law prevented from voting, shall, if duly registered or entered on the last revised and certified list of voters according to the provisions of this Act, be entitled to vote at elections of members to serve in the Legislative Assembly of this Province, that is to say :— Who may vote at elections.

(1.) Every male person being actually and *bona fide* the owner, tenant or occupant of real property of the value hereinafter next mentioned, and being entered on the then last revised assessment roll, for any city, town, village or township, as the owner, tenant or occupant of such real property of the actual value in cities of four hundred dollars, in towns of three hundred dollars, in incorporated villages of two hundred dollars, and in townships of two hundred dollars, shall be entitled to vote at elections of members of the Legislative Assembly, subject to the provisions hereinafter contained. Qualification of electors.

(2.) When any real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, it equally divided between them, to give a qualification to each, then each of them shall be deemed rated within this act; otherwise none of them shall be deemed so rated: Provided that until other provisions shall be made in this behalf, every male British subject having a stated residence in the District of Algoma, for at least one year next previous to the date of the writ of election, and being a householder therein, of the full age of twenty-one years, shall be entitled to vote for a member to represent the said District of Algoma in the Legislative Assembly. Joint owners. Proviso as to Algoma.

#### INTERPRETATION.

6. Wherever the following words occur in any part of this Act, they shall be interpreted as follows :— Interpretation clause.

(1.) The word "Owner" shall signify proprietor, either in his own



own right, or in the right of his wife, of an estate for life or any greater estate.

"Occupant." (2.) The word "Occupant" shall signify a person *bona fide* occupying property, otherwise than as owner or tenant, either in his own right, or in the right of his wife, but being in possession of such property and enjoying the revenues and profits arising therefrom to his own use; and the word "Tenant" shall include any person who, instead of paying rent in money, is bound to render to the owner any portion of the produce of such property.

"To vote." (3.) The words "to vote" in this Act shall mean to vote at the election of a member of the Legislative Assembly.

#### REGISTRATION OF VOTERS.

How lists of voters to be made. 7. The Clerk of each municipality shall, after the final revision and correction of the assessment rolls, in every year, make a correct alphabetical list of all persons entitled to vote therein, with the number of lot or other description of the real property in respect of which each of them is so qualified; and after the division of any municipality into polling subdivisions as hereinafter provided, the Clerk shall annually make out a similar voters' list for every such sub-division.

Clerk to certify to correctness of lists. 2. The Clerk shall certify by oath or affirmation before any Justice of the Peace, to the correctness of every list so by him made out, and shall keep such certified lists among the records of the municipality, and shall deliver a duplicate original thereof, certified by oath or affirmation as aforesaid, to the Clerk of the Peace of the county or union of counties within which the said municipality lies; and all such lists shall be completed and delivered as aforesaid, on or before the fifteenth day of August in each year.

Completion of lists in specified time directory only. 3. The period last mentioned as that within which the said lists shall be completed and delivered, shall be directory only to the Clerk of each municipality, and nothing herein contained shall render null, void or inoperative the said lists, in the event of their not being completed and delivered within the period aforesaid, but the said lists shall be valid and effectual for the purposes of this Act, even though not so completed and delivered by the said period of time.

Penalty. 4. But if any Clerk omits, neglects or refuses to complete or deliver the said lists on or before the fifteenth day of August in each year, according to the directions of this Act, or to perform any of the obligations or formalities herein required of him, such Clerk for each such omission, neglect or refusal, shall incur a penalty of two hundred dollars.

5. In case the Clerk of any municipality does not complete and deliver the lists of voters duly certified by the fifteenth day of August in each year, it shall be the duty of the Clerk of the Peace forthwith to apply summarily to the County Judge or acting Judge of the County Court for the County within which such municipality is situate, to enforce the completion and delivery of such list.

Provision for enforcing the making of lists.

6. The application may also be made by any person entitled to be named on such list as an elector.

Elector may apply.

7. The Judge shall, on such application, require the Clerk of the municipality, and any other person he sees fit, to appear before him and produce the assessment roll, and any other documents relating thereto, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for enforcing the completion and delivery of the lists without any avoidable loss of time.

Judge may require clerk or other person to appear and submit to examination, etc.

8. The Clerk of the municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge.

Liability for costs.

9. Such proceeding and such order of the Judge shall not in anywise exonerate or release the Clerk from liability to the penalty hereinbefore imposed for neglect or refusal to complete the lists, as hereinbefore mentioned.

Judge's order not to release penalty.

10. No person shall be admitted to vote, unless his name appears on the last list of voters, made, certified and delivered to the Clerk of the Peace at least one month before the date of the writ to hold such election; and no question of qualification shall be raised at any such election, except to ascertain whether the party tendering his vote is the same party intended to be designated in the alphabetical list as aforesaid.

No person to vote unless his name appears on the list.

11. Any assessment roll shall be understood to be finally revised and corrected, when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court, in case of an appeal, as provided in the Act respecting the Assessment of Property in Ontario, or when the time during which such appeal may be made has elapsed, and not before.

When list of voters, etc., to be regarded as finally revised.

#### PROVISIONS RELATIVE TO REGISTRATION.

8. If at any time before the issuing of the writ to hold any election for a member to serve in the Legislative Assembly, it is made to appear to the County Judge or acting Judge of the County

Proceedings when list is shown not to be correct.

County Court for the County, that the Clerk of any city or other local municipality, in making the alphabetical lists of persons entitled to vote as aforesaid or the duplicate original thereof, has willfully or inadvertently omitted or inserted any name which ought not to be inserted or omitted, or otherwise altered or falsified the same, or that such alphabetical list or duplicate original is in point of fact not a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, such Judge may require the Clerk of the city or other local municipality, or other officer having the custody of such assessment roll, to appear before him and produce such roll and alphabetical list, and submit to such examination upon oath as may be required of him.

County Judge  
to make alter-  
ations and cor-  
rections.

**9.** At the time and place appointed for the appearance of such person, the Clerk of the Peace shall attend before the County Judge with the duplicate alphabetical list in his possession; and the Judge may, on inspection of such assessment roll and list, and with or without further proof, at his discretion, make such alterations and corrections in such lists as to him seem necessary and proper, in order that the same may be a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, and according to the spirit and meaning of this Act.

Copies of lists  
to be furnish-  
ed on demand.

**10.** The Clerk of the Peace and any Clerk of any city or municipality or part of any municipality, having the custody of the list of voters of any city or municipality, or part of any municipality or place, shall furnish a certified copy of such lists, then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of three cents for every ten voters whose names are on such list.

Clerks, etc.,  
willfully falsi-  
fying or alter-  
ing lists of vo-  
ters to incur  
penalty.

**11.** If the Clerk of any city or municipality neglects to make the alphabetical lists as required by the seventh section of this Act, or, in making out any certified list of persons entitled to vote, willfully inserts or omits any name which ought not to have been inserted or omitted, or otherwise alters or falsifies the same so that it is not the correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected; or if any Clerk, Returning Officer, Deputy Returning Officer, Clerk of the Peace, or any other person whose duty it is to deliver copies or have the custody of any certified list of voters as aforesaid, willfully makes any alteration, omission or insertion, or in any way falsifies any such certified list or copy, every such person shall incur a penalty of two thousand dollars.

#### RETURNING OFFICERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.

Sheriffs to be

**12.** Subject to the provision hereinafter made as to counties divided



divided into ridings, the Sheriffs, for the time being, of the several counties and unions of counties for judicial purposes, shall be *ex officio* Returning Officers for the counties and unions of counties for purposes of representation in the Legislative Assembly, over which or over any county in which their authority as such Sheriffs extends, and in which they respectively reside, and also for the respective cities and towns sending members to the said Assembly and lying within the local limits of such counties or unions of counties; and for the several other counties or unions of counties for the purpose of representation in the said Assembly, for which no Sheriff is, under the foregoing provisions *ex officio* the Returning Officer, the Registrars of deeds, for the time being, for such counties or unions of counties, or of any of the counties included in such unions of counties, shall be *ex officio* Returning Officers.

returning of-  
ficers for  
counties,  
unions of  
counties,  
cities, etc.,

and if o  
sheriff, he  
registrar.

2. If in any case there is more than one person who may, under the foregoing provisions, be *ex officio* Returning Officer for any place, then the writ of election may be directed to either of them, and the person to whom it is directed shall alone act as such Returning Officer; and if in any case it happens that writs of election issue at the same time, or so nearly at the same time that the one is not returnable before the other or others issue, for several places for which the same person would, under the foregoing provisions, be *ex officio* Returning Officer, then only one of such writs shall be directed to such person, and the other or others to such other person or persons, qualified in the manner provided by the fourteenth section of this Act, as the Lieutenant Governor shall appoint to be the Returning Officer or Officers.

Provisions  
where more  
than one per-  
son who may  
act as return-  
ing officers.

3. In each of the counties in Ontario which are divided into ridings, the Sheriff or Registrar of deeds, who would, under the preceding provisions of this section, be the Returning Officer for such County, shall be the Returning Officer for the Riding thereof in which he resides; and where there is a Sheriff who is Returning Officer for one riding, the Registrar or Registrars of deeds for the other riding or ridings shall be *ex officio* Returning Officer for such other riding or ridings respectively, subject always to the preceding provisions of this section: Provided always, that the Sheriff of the United Counties of Leeds and Grenville shall be *ex officio* Returning Officer for the North Riding of Leeds and Grenville; that the Registrar of deeds for the County of Leeds shall be *ex officio* Returning Officer for the South Riding of Leeds; and that the Registrar of deeds for the County of Grenville shall be *ex officio* Returning Officer for the South Riding of Grenville.

Provision with  
regard to  
counties  
divided into  
ridings.

Proviso as to  
Leeds and  
Grenville.

13. If in any case it happens that there is no person, who, under the provisions of this Act, can be *ex officio* Returning Officer

In case no one  
*ex officio* re-

turning officer,  
Governor may  
appoint a per-  
son.

Officer for any place for which an election is to be held, or the person who would or might be such Returning Officer is absent from the Province, or incapacitated from sickness or otherwise from performing the duties of Returning Officer, then the Lieutenant Governor may appoint any person qualified under this Act to be Returning Officer for such place.

Qualification  
of any person  
so appointed.

**14.** No person, other than a Sheriff or Registrar aforesaid, shall be so appointed or act as Returning Officer for any county, riding, city or town, or other electoral division, in this Province, unless at the time of his appointment, such person is an elector for such county, riding, city, or town, or other electoral division, then duly and legally qualified to vote at the election of a member for the same, nor unless he has continually resided therein during at least twelve months immediately preceding his appointment; and any person who, being so appointed, acts as Returning Officer for any one of the said counties, ridings, cities or towns, or any other electoral division, without possessing the qualifications hereinbefore required, shall thereby incur a penalty of two hundred dollars.

Penalty.

Persons ex-  
cluded from  
being return-  
ing officers.

**15.** None of the persons hereinafter designated in this section, shall, in any case, be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say :—

*First.* The Members of the Executive Council ;

*Second.* The Members of the Parliament of the Dominion of Canada ;

*Third.* The Members of the Legislative Assembly ;

*Fourth.* Any Minister, Priest or Ecclesiastic, under any form or profession of religious faith or worship ;

*Fifth.* The Judges of the Superior Courts, as well as the Judges of the County Courts ;

*Sixth.* All persons who have served in the Legislature of this Province as members of the Legislative Assembly, in the session next immediately preceding the election in question, or in the then present session, if the election takes place during a session of the said Legislature.

Penalty.

**2.** If any one of the persons above mentioned in this section is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of two hundred dollars.

**16.** None of the persons hereinafter mentioned in this section, unless they are Sheriffs or Registrars, or Town Clerks, or Assessors, shall be obliged to act as Returning Officer, or Deputy Returning Officer, or as Election Clerk or Poll Clerk, that is to say :—

*First.* Physicians and Surgeons ;

*Second.* Millers ;

*Third.* Postmasters ;

*Fourth.* Persons being sixty years of age, or upwards ;

*Fifth.* Persons who have previously served as Returning Officers.

**17.** Every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any such election as aforesaid, after having received the writ of election, shall, for such refusal, incur a penalty of two hundred dollars ; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed such exemption by letter to the Clerk of the Crown in Chancery, forwarded within two days next after the receipt of such writ of election, setting forth the grounds of such exemption. Exempted persons. Penalty.

#### GENERAL ELECTIONS.

**18.** Whenever, after the passing of this Act, a new Legislative Assembly may be called, and a general election held for that purpose, the Lieutenant Governor in Council shall fix the day for holding such elections, and shall also fix the day on which the polling shall take place, in cases where a poll is demanded and granted. Governor to fix the days of election and polling.

**2.** At every such general election, the elections for each and every county, riding, city, town or other electoral division throughout the Province, shall take place and be held on one and the same day ; and the polling at all such elections, where polls have been demanded and granted, shall also take place on one and the same day ; and the respective days so fixed for holding such elections, and for opening and holding the polls, shall be stated and inserted in the proclamation calling such general election, and in the several writs of election in that behalf. All general elections on same day. Polling on same day.

**3.** The day so to be fixed as aforesaid for holding the said elections shall not be more than twenty days, nor less than sixteen days from the date of the writs of election ; and the day Time for holding elections and for polling. for



for holding the polls shall not be more than eight, nor less than six days after the day for holding the said elections.

Teste and re-  
turn.  
Proviso as to  
Algoma.

4. There shall be forty days between the teste and the return of every writ of election: Provided always, that in the case of the District of Algoma, there shall be ninety days between the teste and return of any writ of election, issued between the fifteenth day of October, and the fifteenth day of March following; that the days for opening the election and for opening and holding the polls, and for taking the votes of the electors, shall be fixed by the Returning Officer, and stated and set forth in his proclamation in that behalf; and that such polls shall be opened and held only at the following places in the said District, namely, Killarney, Spanish River, Little Current, Bruce Mines, Sault-Ste.-Marie and (in case the polling shall take place between the first day of May and the first day of November following), at Fort William.

#### ISSUE OF THE WRIT.

Writs to be  
addressed to  
returning  
officers.

19. Whenever a writ of election is issued for the election of a member to serve in the Legislative Assembly of this Province, the same shall be addressed and directed to the Sheriff or Registrar who is *ex officio* the Returning Officer for the electoral division, or to the person appointed by the Lieutenant Governor, if such appointment is made according to the requirements of this Act.

#### PROCEEDINGS ON THE RECEIPT OF THE WRIT.

Endorsement  
on writ.

20. Each Returning Officer shall, on receiving the writ of election, forthwith endorse thereon the date of its reception.

Proclamation.

2. Within three days next after the day of such reception, he shall, by a proclamation under his hand, in the English language, and in the form A of the schedule annexed to this Act, declare the place, day and hour, at which the election shall be held.

Posting up of  
proclamation.

3. He shall cause the said proclamation to be posted up, in the manner hereinafter prescribed, at least eight days before the day fixed for holding the said election, which day so fixed shall be called the Nomination Day.

Place of elec-  
tion.

4. The place at which such election shall be held, shall be fixed by the Returning Officer, and shall be in the public place most central and most convenient for the great body of the electors in the county, riding, city or town or other electoral division for which he is acting as such Returning Officer, and the hour to be fixed shall be between eleven o'clock in the forenoon and two o'clock in the afternoon, of the day so fixed for opening such election as aforesaid.

Hour.

5. In and by the proclamation aforesaid, the Returning Officer shall also declare the day on which, in case a poll be demanded and granted as hereinafter provided, such poll shall be opened, in conformity to this Act, in each city, township, or union of townships or ward, or part of township or ward, (as the case may be), for taking and recording the votes of the electors according to law. Polling day.

6. If the election be for a city or town, he shall cause the said proclamation to be posted up at the city or town hall, and in some public place in each ward of such city or town. Place of posting up proclamation in cities, etc.

7. If the election be for a county or riding, he shall cause the said proclamation to be posted up at the town hall or other public place where the meetings of the municipal council of each township are held, at every post office in the electoral division, and at least at one public place in every polling subdivision. In counties, etc.

8. Neither the day of nomination nor that of the posting up of such proclamation, shall be included within the said eight days. How the eight days' notice reckoned.

9. Any Returning Officer refusing or neglecting to cause such proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of two hundred dollars. Penalty.

21. Each Returning Officer shall, before the day fixed for opening the election, take and subscribe before a Justice of the Peace for the county or district in which he resides, the oath number one in the schedule to this Act; and such Justice of the Peace shall, (under a penalty of forty dollars, in case of refusal,) deliver to him, under the hand of such Justice, and in the form B of the said schedule, a certificate of his having taken the said oath, which, together with the said certificate, shall be annexed to his return to the writ of election; and any Returning Officer who refuses or neglects either to take and subscribe the said oath, or to annex it with the said certificate to his return, shall, for such refusal or neglect, incur a penalty of forty dollars. Oath of returning officer. Certificate thereof. Penalty.

#### ELECTION CLERKS.

22. Each Returning Officer shall, before the nomination day, appoint, by a commission under his hand, in the form C of the said schedule, a fit person to be his Election Clerk, and to assist him in the performance of his duties as Returning Officer. Returning officer to appoint an election clerk.

2. Such Election Clerk shall take and subscribe, either before Election

clerk to be sworn.

Certificate thereof.

a Justice of the Peace for the county or district in which he resides, or before the said Returning Officer, the oath number two in the said schedule; and, of his having taken such oath, there shall be delivered to him, by the person before whom he has been sworn and under his hand, a certificate in the form D of the said schedule.

Penalty.

3. Any person so appointed as Election Clerk, who refuses to accept the said office, or who, having accepted it, refuses or neglects to take and subscribe the said oath, or to perform the duties of Election Clerk, shall, for such refusal or neglect, incur a penalty of forty dollars.

Provision in case of death, etc., of election clerk.

4. The Returning Officer may, either before or after the nomination day, appoint, in the manner above mentioned, another person as his Election Clerk, whensoever the case requires, either by reason of the death, illness or absence of any Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise; and such new Election Clerk so appointed shall perform all the duties, and comply with all the obligations of his office, under the same penalty, in case of refusal or neglect on his part, as is hereinbefore imposed in like cases.

Provision in case of death, etc., of returning officer.

5. Whenever any Returning Officer becomes unable to perform the duties of his office, whether by death, illness, absence or otherwise, the Election Clerk, so by him appointed as aforesaid, shall, under the same penalties in case of refusal or neglect on his part as are hereinabove imposed in like cases on the Returning Officer, act as, and shall be, Returning Officer for the said election, and shall perform all the duties and obligations of that office, in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new oath for that purpose; and, in any such case, the Election Clerk shall annex to his return to the writ of election the said certificate of the oath he has taken as Election Clerk, and also the oath itself.

Certificate in such case to be annexed to return.

#### PROCEEDINGS ON THE NOMINATION DAY.

Proceedings of the returning officer on the day of nomination.

23. Every Returning Officer shall, at the time and place fixed as aforesaid for opening the election, proceed to the hustings, (which shall be held in the open air, at such place as that all the electors may have free access thereto,) and shall make, or cause to be made, in the English language, in the presence of the electors there assembled, a proclamation in the form E of the said schedule, and shall then and there read, or cause to be read publicly, in the English language, the writ of election, and his commission as Returning Officer when he has been appointed Returning Officer by special commission for such purpose, and shall then require the electors there present to name the person or persons whom they wish to choose at the said election to represent them in the said Legislative Assembly in obedience to the said writ of election.



2. No show of hands shall be taken on the nomination day, but if at the nomination more than one candidate be proposed, and a poll is then and there demanded by or on behalf of any one or more of such candidates, the Returning Officer shall grant a poll for taking and recording the votes of the electors.

No show of hands; if poll demanded to be granted.

3. Any elector present, or any candidate in person, or by his agent, may demand a poll, and when at any such election a poll is demanded, if the Returning Officer neglect or refuse to grant the same, the election shall be *ipso facto* null; and such Returning Officer shall, for such refusal or neglect, incur a penalty of one thousand dollars.

Penalty.

4. If only one candidate be nominated, or the electors there and then present agree in the choice so to be made of the person to represent them, the Returning Officer, shall, at the expiration of one hour from the nomination of such candidate and not before, close the election, and shall then and there openly proclaim the person so chosen to be duly elected.

If only one candidate proposed within one hour, he to be declared elected.

#### AGENTS FOR ABSENT CANDIDATES.

24. At any election as aforesaid, whether on the day of the opening, or at the polling places opened and kept for such election, in the absence of any person authorized in writing to act as agent for any absent candidate, any elector in the interest of such candidate, may, at any time during the election, declare himself to be and may act as the agent of any such candidate without producing any special authority in writing for that purpose.

Who may act as agent of candidate.

#### SUBDIVISIONS FOR POLLING PLACES.

25. Every city, town, ward or township having more than two hundred qualified voters therein, shall be divided by well defined boundaries, such as streets, side lines, concession lines or the like, in the most convenient manner into polling subdivisions by by-law of the municipal council having jurisdiction over the locality, and in such manner that the number of qualified electors in the several polling subdivisions shall be as nearly equal as may be, and shall not in any one exceed two hundred; and such subdivision shall be made immediately after the final revision and correction of the assessment roll of each such city, town, ward or township, which shall first happen after the passing of this Act.

Cities, etc., to be divided into polling subdivisions.

26. Whenever the number of qualified voters in any such polling subdivision shall increase so as to exceed two hundred, or whenever the municipal council shall consider that the convenience of the electors would be promoted by a new and different subdivision, such city, town, ward or township shall be again

and again divided when necessary.

Proviso.

again in like manner divided into polling subdivisions so as to conform to the intent and meaning of this Act, and so again, from time to time, as like occasion shall require, the municipal council, using on all occasions the then last revised and corrected assessment roll for that purpose: Provided always, that at any time within two months after the filing of such by-law, an appeal shall lie from any such subdivision at the instance of any five of the electors, to the Judge of the County Court, who shall promptly correct such subdivision so as to conform to the true intent and meaning of this Act.

Subdivision to be numbered.

2. The said subdivisions shall be numbered consecutively in and by the by-law by which they are established, and a copy of such by-law certified under the seal of the corporation to be a true and correct copy, and signed by the head or clerk of the municipality, shall be forthwith, after the making thereof, transmitted to and filed in the office of the Clerk of the Peace of the county or union of counties within which such municipality is situate.

Duty of returning officer in case polling divisions have not been established.

3. In case of failure on the part of any municipal council to divide any city, town or other local municipality into polling subdivisions, proportioned to the number of electors, as hereinbefore provided, or in case the time to appeal from the division should not have expired before the reception of the writ, the Returning Officer shall provide for as many polling places for polling the votes of the electors in such city, town or other local municipality, as shall correspond, as nearly as may be, with the number of polling places which would have been required if the said city, town or other local municipality had been subdivided into the proper number of polling subdivisions.

Copy of voters' list to be furnished for each polling place.

4. Whenever polling subdivisions shall have been established by the municipal council, or shall have been provided for by the Returning Officer, a poll shall be opened and held, in every such subdivision, for taking the votes of the electors therein, and a copy or duplicate of the voters' list for the subdivision, shall be furnished for each polling place appointed therefor.

Provision when property partly in one subdivision and partly in another.

27. Whenever it appears by the assessment roll that any person is assessed for property within the municipality sufficient to entitle him to vote, but that it lies partly within the limits of one of such subdivisions and partly within another or others, the clerk shall enter his name on the list of voters for each or every subdivision in which any part of such property is situate, and such person may vote at the polling place for either of such subdivisions in his discretion; but no person shall vote or offer to vote at more than one polling place in any county, riding, city or town or incorporated village, at any election, under a penalty of two hundred dollars.

Penalty.

**28.** The Returning Officer, on receiving the writ of election, shall fix one polling place for each subdivision into which such city, town or other local municipality may be subdivided, in the most central and convenient place for the electors of such subdivision: Provided the number of polling places, now required by law in cities and towns, shall in no case be diminished, and that the polling places shall be at least two hundred yards distant from each other in cities, towns and incorporated villages, and at least one mile distant from each other in other local municipalities; but the building in which the poll is held, shall not be a tavern or place of public entertainment; and there shall be free access thereto to every elector.

Polling place in each polling subdivision.

Proviso.

#### PROCEEDINGS WHEN A POLL IS GRANTED.

**29.** When, at any such election, a poll has been granted, the Returning Officer, immediately after having granted such poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the places at which the poll shall be so opened in each polling subdivision or ward, (as the case may be,) for the purpose of then and there taking and recording the votes of the electors according to law.

Day of opening the poll to be proclaimed.

**30.** The day to be fixed for opening the poll as aforesaid, shall not be a Sunday, New Year's Day, Good Friday, Christmas Day, the First Day of July, or the Birthday of the Sovereign; and the poll shall be opened and held on that day only, so that there be but one and the same day's polling at any special or general election.

Poll not to be held on Sundays or certain holidays.

**2.** On the day of polling the voting shall commence at nine o'clock in the forenoon, and shall finish at five in the afternoon of the same day.

Hours of voting.

#### APPOINTMENT OF DEPUTY RETURNING OFFICERS.

**31.** For the purpose of taking the votes at any such election, the Returning Officer shall, by a commission under his hand and in the form F of the said schedule, appoint some suitable person to be Deputy Returning Officer for each such polling subdivision in which a polling place is to be opened and kept, and shall thereby require such Deputy Returning Officer to open and hold the poll according to law, at the time and place fixed as hereinbefore provided, and to take and record at such poll, in a book which such Deputy shall keep or cause to be kept for that purpose, in the form L of the said schedule, the votes of the electors voting at the said poll, and to return to him the said poll book signed with his hand and sealed with his seal, on or before the third day after closing the poll.

Deputy returning officers to be appointed.

Form of poll book, return thereof, etc.



Their oath of office, etc.

2. Each Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the Returning Officer, the oath number three in the said schedule, of the taking of which oath there shall be delivered to him by the person before whom he has taken it, a certificate under the hand of such person in the form G of the said schedule.

Penalty for refusing to perform the duty.

3. Any person so appointed a Deputy Returning Officer who refuses to accept the said office, or who, after having accepted the same, refuses or neglects either to take and subscribe the said oath or to perform the duties of a Deputy Returning Officer, shall, for such neglect or refusal, incur a penalty of one hundred dollars.

Township clerk to be deputy returning officer for subdivisions.

32. In townships divided into polling subdivisions under this Act, the township Clerk shall be appointed by the Returning Officer to be Deputy Returning Officer for the subdivision in which the town hall is situate, if there be a town hall in such township, but if there be no such town hall, then for the subdivision in which the first meeting of the council of the municipality for that year was held; and in case of the absence, sickness or death of the township Clerk, the township Assessor or Collector shall be appointed such Deputy Returning Officer.

A township attached to town for electoral purposes, to be a ward of such town.

2. Any township or part of a township in Ontario which is by law made part of a town for the purpose of representation, although not otherwise within the limits thereof, shall, for the purpose of holding an election of a member of the Legislative Assembly, be dealt with, except as to the qualification of electors, as if it were a ward of such town.

Provision in case of death, etc., of deputy returning officer.

33. The Returning Officer may appoint in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require such appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise; and such new Deputy Returning Officer so appointed shall perform all the duties and obligations of the said office, under the same penalties in case of refusal or neglect on his part, as are hereinabove imposed in like cases.

His duties.

#### PROCEEDINGS PRELIMINARY TO POLLING.

##### *Lists of Electors.*

Returning officer to see that his deputies

34. Every Returning Officer, upon granting a poll at any election, shall ascertain that every Deputy Returning Officer is in possession of a certified copy of the proper list of voters for the electoral

electoral subdivision for which he is Deputy Returning Officer. are furnished with voters' lists ;

**35.** If the Clerk of the municipality is not the Deputy Returning Officer, or if the copy in the possession of the Clerk has been lost or destroyed, the Returning Officer shall procure from the Clerk of the Peace a copy certified by him to be correct of the proper list of voters for each polling subdivision filed in his office, and shall cause the same to be delivered to the Deputy Returning Officer. to procure lists when requisited ;

2. The Returning Officer shall deliver to each Deputy Returning Officer the necessary poll book or poll books for polling and recording the votes of the electors. and deliver poll books.

*Appointment and general duties of Poll Clerks.*

**36.** Every Deputy Returning Officer shall, by a commission under his hand, and in the form H of the said schedule, appoint a Poll Clerk to assist him in taking the poll according to law ; and each Poll Clerk appointed as aforesaid shall, before acting as such, take and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the Returning Officer, or such Deputy Returning Officer, the oath number four, in the said schedule, of the taking of which oath there shall be delivered to him, by the person before whom it has been taken, a certificate under his hand, in the form J in the said schedule. Deputy returning officers to appoint poll clerks, who must be sworn.

2. Any person so appointed a Poll Clerk who refuses to accept the said office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath hereby required of him, or to perform the duties of a Poll Clerk, shall, for such neglect or refusal, incur a penalty of forty dollars. Penalty.

**37.** Each Poll Clerk shall, at the polling place for which he is appointed, aid and assist, in the performance of the duties of his office, the Deputy Returning Officer appointed to open and keep the poll at such place in conformity to this Act, and shall obey the orders of the said Deputy Returning Officer. Their duties.

2. If the Deputy Returning Officer refuses or neglects to perform the duties of his office, or becomes unable to perform them, either by death, illness, absence or otherwise, and if in any such case no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former, appears at the polling place, then such Poll Clerk shall, under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer, act at such poll as Deputy Returning Officer, and perform all the duties and obligations of that office, in the same manner as if he had been appointed Deputy Returning Officer by the Returning Officer, and without being bound to take any new oath for that purpose. To act for deputy returning officer in certain cases,

in which he may appoint another poll clerk.

3. Whenever any Poll Clerk, in the case hereinbefore provided, acts as Deputy Returning Officer, he may appoint by a commission under his hand, in the form H of the said schedule, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and may administer to such person the oath required of a Poll Clerk by this Act; and the Poll Clerk so appointed shall have the same duties and obligations as if he had been appointed Poll Clerk by the Deputy Returning Officer himself.

Deputy returning officer may appoint another poll clerk in certain cases.

4. And also, whenever any Poll Clerk, appointed under the requirements of this Act, refuses or neglects to perform his duty as such, or becomes unable to perform it, either by death, illness, absence or other cause, the Deputy Returning Officer, whose Poll Clerk he was, may appoint by a commission under his hand in the form H of the said schedule, another person as Poll Clerk at the said polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act.

#### TAKING AND RECORDING THE VOTES.

Deputy returning officer to certify each page of the poll book.

38. Each Deputy Returning Officer shall write or print in full at the head of each page of the poll book used by him, the number of such page, and certify the same by his signature as follows: "Page Number One, (*or Two, or as the case may be*) "A. B., Deputy Returning Officer;" and he shall certify in full words at the foot thereof, (before entering any name or vote in the next succeeding page,) the first and last name and the total number of votes entered thereon, and shall then sign the same, which certificate shall be to the effect following: "I certify that the total number of names of persons whose votes are recorded on this page is , whereof the first name is C. D, and the last is E. F.—Signed, A. B., Deputy Returning Officer."

Mode of recording the votes in poll books.

39. Each Deputy Returning Officer shall, at the polling place kept by him in conformity to this Act, record or cause to be recorded in such poll book as aforesaid, and in the order in which they shall be given, the votes of the electors voting at such polling place, by entering therein the name, surname, legal addition and residence of each elector so voting, and by shewing by the insertion of the word "Owner," or the word "Tenant," or "Occupant," in the said poll book, whether it is as a proprietor or as a tenant or occupant that such elector claims the right of voting at such poll; and when any elector has taken the oath required of him by this Act, the Deputy Returning Officer shall state in the poll book that such oath was taken by the elector, by entering opposite the name of such elector, in the proper column in the said poll book, the word "Sworn," and nothing more.

As to electors sworn.



**40.** In every case where the vote of any person is objected to by any candidate or his agent, the Deputy Returning Officer shall enter the objection in his poll book by writing opposite the name of the voter, in the column for objections, the words "Objected to" only, mentioning at the same time by which candidate, or on behalf of what candidate the objection has been made, by adding after the words "Objected to" the name only of such candidate.

Votes objected to how distinguished in the poll book.

**41.** The Deputy Returning Officer, at any election of a member of the Legislative Assembly in any part of this Province, shall receive the vote of any person whose name he finds in the proper list of voters furnished to him, or in his possession as aforesaid: Provided that such person shall, if required by any candidate, or the agent of any candidate, or by the Deputy Returning Officer himself, take the following oath or affirmation, which such Deputy Returning Officer is hereby empowered to administer, in the form O in the schedule to this Act mentioned; and no other oath or affirmation shall be required of any person whose name is entered on any such list of voters as aforesaid.

Persons on voters' list allowed to vote, on taking a certain oath if required.

Proviso.

**2.** At every election for the District of Algoma every person who offers to vote at any polling place in the said District, shall, if required by any candidate, or the agent of any candidate, or by the Deputy Returning Officer, take the oath or affirmation in the form R, appended to this Act, which the Deputy Returning Officer is hereby empowered to administer.

Algoma.

**42.** Whenever any Deputy Returning Officer has reason to know or believe that fraud or violence is being practised in violation of the rights of electors, by which undue votes are tendered, or that any voter is not qualified, or has already voted at the said election and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being on the list of voters, such Deputy Returning Officer, under a penalty of two hundred dollars, shall administer the oath authorized by law to such voter, whether he be required to do so or not by any party, of which mention shall be made in the poll book.

Deputy returning officer must swear voters in certain cases.

Penalty.

**2.** And when any person offering to vote has been so required by the Deputy Returning Officer, or by any of the candidates or his agent to take such oath or make such affirmation, and refuses to take or make the same, his refusal shall be stated by the Deputy Returning Officer in his poll book, by entering opposite the name of such person the word "Refused;" and in every such case the vote shall not be taken or recorded in the said poll book; and if any vote is in any such case taken and recorded, it shall be *ipso facto* null and void; and the Deputy Returning Officer shall, for having taken and recorded the same, or for having caused it to be taken and recorded in his said poll book, incur a penalty of two hundred dollars.

Effect of voter refusing to be sworn.

Penalty.

Interpreter  
may be em-  
ployed in cer-  
tain cases.

His oath. ✓

Deputy re-  
turning officer  
to certify the  
state of the poll  
at closing.

No scrutiny.

Penalty for  
false person-  
ation.

Penalty for  
disqualifica-  
tion.

Proof of the  
qualification to  
be on the per-  
son voting.

Penalty for  
voting more  
than once.

**43.** Whenever any elector does not understand the English language, the Deputy Returning Officer may employ an interpreter to translate the oath or affirmation required of such elector, as well as any lawful questions necessarily put to him and his answers; and such interpreter shall take before the said Deputy Returning Officer the oath, (or if he be one of the persons permitted by law to affirm in civil cases, the affirmation,) following: "I swear (*or* affirm) that I will faithfully translate such oaths, declarations, questions and answers as the Deputy Returning Officer shall require me to translate at this election; so help me God."

**44.** The Deputy Returning Officer shall, at the close of the polling, certify under his signature on the said book, and in full words, the true state of the votes at such close to the effect following: "I certify that the number of votes polled at the close of the polling in the polling subdivision of the Township (*or as the case may be*) of is (*the total number of votes polled*); where- of G. H. a Candidate has polled; J. K. a Candidate has polled; L. M. a Candidate, has polled (*as the case may be*).—Signed, A. B., Deputy Returning Officer;" of which state of the votes he shall give certified copies to any person demanding the same, before he, the said Deputy Returning Officer, leaves the polling place.

**45.** No Returning Officer or Deputy Returning Officer shall grant, make or enter into any scrutiny of the votes given at any election.

#### PENALTIES FOR VOTING FRAUDULENTLY.

**46.** If at the election of a member to serve in the Legislative Assembly, any person knowingly personates and falsely assumes to vote in the name of another person whose name appears on the proper list of voters, whether such other person be then living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall incur a penalty of two hundred dollars.

**47.** Any person wilfully voting at any such election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote, shall, for so doing, incur a penalty of two hundred dollars, and his vote shall, moreover, be null and void; and in any action or prosecution instituted as hereinafter provided against any such person for the recovery of the said penalty, the burden of the proof of such person having, at the time of his so voting, at such election, all the said qualifications, shall fall upon him and not upon the party instituting such action or prosecution; and any person who votes more than once at the same election shall, for so doing,

ing, incur a like penalty of two hundred dollars, and every vote he gives subsequently to his first vote shall be null and void.

48. If any lands or tenements are transferred or conveyed to any person, by any title or instrument whatever, fraudulently, and for the purpose of giving him the qualification requisite to enable him to vote, and if such person votes at any election, upon such lands or tenements, he shall incur a penalty of two hundred dollars; and nevertheless such transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to reconvey such lands or tenements, shall be valid, as between the parties thereto; and every such agreement to annul or revoke any such transfer or conveyance, or to reconvey such lands or tenements, shall be null and void.

Penalty for fraudulent conveyances in order to give a vote.

Such conveyances to be valid.

#### PROCEEDINGS AFTER THE CLOSE OF THE POLLS.

49. Every Poll Clerk shall, after the closing of the poll at which he has acted as such, but before the Deputy Returning Officer who has kept the same has returned the poll book to the Returning Officer, as herein required, make and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the said Deputy Returning Officer, or before the Returning Officer himself, the oath in the form M of the schedule hereunto annexed, which oath shall thereafter be annexed to the said poll book.

Oath to be made by poll clerk before return of poll book.

2. The Deputy Returning Officer who has kept and closed the poll, shall, before returning the poll book as aforesaid to the Returning Officer, make and subscribe, either before a Justice of the Peace for the county or district where he resides, or before the said Returning Officer, the oath in the form N of the said schedule, which oath shall thereafter be annexed to the said poll book; and the Deputy Returning Officer shall return the poll book, with such oath attached, to the Returning Officer, or deposit the same in the nearest post-office, as hereinafter provided, on or before the third day after the closing of the polls.

Oath to be made by the deputy returning officer.

Poll book to be returned.

50. Any Deputy Returning Officer or Poll Clerk who refuses or neglects to perform any of the obligations or formalities required of him by this section, shall, for each such refusal or neglect, incur the penalty of two hundred dollars.

Penalty.

51. The Deputy Returning Officer shall deliver the said poll book, with the said commission of the Deputy Returning Officer and Poll Clerk, their respective oaths of office, and the said oaths in the forms M and N, attached thereto, personally to the Returning Officer; or shall deposit the same under a sealed cover, addressed to the Returning Officer at his usual place of residence, in the nearest post office, if the same be nearer than the residence of the Returning Officer, and shall mention on the outside

Poll book to be delivered by deputy in person, unless in case of sickness, etc.



Penalty.

outside of such cover, the day and hour when it was so deposited, and that it is to be transmitted by "parcel post," and shall sign such statement, and shall take a proper receipt therefor; and any Deputy Returning Officer failing therein, or in any of the obligations or formalities herein prescribed as the duties of Deputy Returning Officers, and any postmaster or other person having taken charge of such poll book and failing to transmit the same so covered and sealed in the same state in which he received it, in due time and manner, shall incur a penalty of four hundred dollars.

#### CLOSING THE ELECTION AND PROCEEDINGS THEREAFTER.

Mode of ascertaining result of elections.

**52.** The Returning Officer shall, so soon as he shall have received all the poll books used at the election, by counting and adding up from each poll book, ascertain the total number of votes taken and received for each candidate at the election, as certified and sworn to by the several Deputy Returning Officers, and shall, within ten days thereafter, make and transmit by mail, his return to the Clerk of the Crown in Chancery; and he shall also, upon application, deliver to each of the candidates or their agents, or, if no application be made, he shall, within the same period, transmit by mail to each candidate, a duplicate of such return, which duplicate shall stand in lieu of an indenture.

Proceedings in case poll book is stolen, etc.

**53.** In case any poll book is stolen or taken from its lawful place of deposit for the time being, or has been lost or destroyed, or otherwise placed beyond the reach of the Deputy Returning Officer to whom the custody of such poll book for the time being belonged, at any time before he has made his return of the same to the Returning Officer, such Deputy Returning Officer shall attend personally on the Returning Officer and report to him the fact of such loss of the said poll book; and the Poll Clerk of such Deputy Returning Officer, so soon as he is informed of such loss personally or by letter, either by or from such Deputy Returning Officer, or the Returning Officer himself, or has other good reasons for believing that such loss has occurred, shall forthwith attend personally on such Returning Officer.

Examination of deputy returning officer and poll clerk, etc.

**2.** The Returning Officer shall examine such Deputy Returning Officer and Poll Clerk upon oath or affirmation, as the occasion may require, as to such loss of the said poll book and the contents thereof, which examination shall be taken down by him in writing, and be subscribed by such Deputy Returning Officer and Poll Clerk, and annexed to the return in lieu of such poll book; and the number of votes which the said Returning Officer shall by this means find to have been recorded in such poll book for each candidate at such election, shall be included in his summing up of the votes at such election, as if the same had been taken from such poll book.

3. If either the Deputy Returning Officer or the Poll Clerk omits to attend on such Returning Officer as hereby required, or refuses to be sworn or affirmed by such Returning Officer as aforesaid, he shall incur a penalty of two hundred dollars, and in the case of such refusal to be sworn or affirmed as aforesaid, shall and may be committed by the said Returning Officer to the common gaol of the county or district, until thence discharged by an order in that behalf made by the Legislative Assembly.

Punishment of deputy returning officer or poll clerk refusing to attend or be sworn.

54. When the Returning Officer having received any poll book, or any document connected with the election, has reason to believe that the same has been altered, injured or obliterated, or that additions have been made thereto, he shall establish the true facts in the manner above provided in case of the loss of any poll book.

Duty of returning officer believing any election documents to be altered, etc.

55. Each Returning Officer shall make or cause to be made exact copies of all the poll books returned to him by his several deputies, and, within ten days after making his return to the Clerk of the Crown in Chancery, as provided by the fifty-second section of this Act, shall deposit such copies duly certified by him in the office of the Registrar of deeds and titles for that county, riding or part of a county within which the place where the nomination of the candidates at such election was made, is situate; and the said Registrar shall allow inspection thereof to any person who may demand the same on payment of a fee of twenty cents, and shall allow such person to take copies of the same at his own expense.

Returning officer to have copies of the poll books made and deposited.

56. The Returning Officer shall forward to the Clerk of the Crown in Chancery, with his return to the writ of election, the original poll books, and lists of voters used at that election, duly certified as such by him.

Poll books and voters' lists to be returned with writ.

#### KEEPING THE PEACE AND GOOD ORDER AT ELECTIONS.

57. From the time when any Returning Officer or Deputy Returning Officer has taken and subscribed the oath of office as such, until the day next after the final closing of the polls at such election, such Returning Officer or Deputy Returning Officer, respectively, shall be a conservator of the peace, and invested, for the maintenance of the peace, for the arrest, detention or admission to bail, trial and conviction of any person or persons who break the law or trouble the peace, with the same powers with which Justices of the Peace are invested in this Province.

Returning officer and his deputies to be conservators of the peace;

2. For the maintenance of the peace and of good order at such election, each such Returning Officer or Deputy Returning Officer, respectively, may require the assistance of all Justices of the Peace, constables, and other persons present at the election, whether at the place of holding the election, or

may require the aid of Justices of the Peace, etc.;

at

at any polling place, to aid him in so doing, and may also swear in as many special constables as he deems necessary.

and may arrest disturbers, or order them to be imprisoned for a certain time.

3. Each such Returning Officer or Deputy Returning Officer, respectively, may arrest or cause to be arrested by verbal order, and may place in the custody of one or more constables or other persons, for such time as in his discretion he deems expedient, any person disturbing the peace and good order, or may cause such person to be imprisoned for any such offence, under an order signed by him, for any period not later than the final closing of the election or of the poll, respectively; which order all persons shall obey without delay, under a penalty, for any refusal or neglect so to do, of twenty dollars.

Penalty.

Such arrest not to prevent other punishment.

4. No such arrest, detention or imprisonment shall, in any manner, exempt the person so arrested, detained, confined or imprisoned, from any pains or penalty to which he has become liable by reason of anything by him done contrary to the true intent and meaning of this Act or otherwise.

Special constables to be sworn in certain cases.

58. On a requisition in writing made by a candidate or by his agent, or by any two or more electors, any Returning Officer or Deputy Returning Officer shall swear in such special constables.

Returning officer or deputy may demand surrender of all weapons.

59. Any Returning Officer or Deputy Returning Officer may, during any part of the day whereon any such election is to be begun, holden or proceeded with, or on which any poll for such election is to be begun, holden or proceeded with, demand and receive from any person whomsoever, any offensive weapon, such as fire arms, swords, staves, bludgeons or the like, with which any such person is armed, or which any such person has in his hands or personal possession; and every such person, who, upon such demand, declines or refuses to deliver up to such Returning Officer or Deputy Returning Officer, any such offensive weapon as aforesaid, shall incur a penalty of twenty dollars.

Penalty.

Penalty for persons convicted of battery.

60. Every person convicted of a battery committed during any part of the days whereon any such election, or any poll for such election, is to be begun, holden, or proceeded with, within the distance of two miles of the place where such election or such poll is so begun, holden, or proceeded with, shall incur a penalty of fifty dollars.

Entertainment not to be furnished to electors.

61. No candidate for the representation of any county, riding, city, town, or other electoral division shall, with intent to promote his election, nor shall any other person, with intent to promote the election of any such candidate, either provide or furnish entertainment at the expense of such candidate or other person, to any meeting of electors assembled for the purpose



purpose of promoting such election, previous to or during the election at which he is a candidate, or pay for, procure or engage to pay for, any such entertainment; except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of electors, by or at the expense of any person or persons at his, her or their usual place of residence.

Exception.

**62.** Except the Returning Officer or his Deputy, or the Poll Clerk, or one of the constables or special constables, appointed by such Returning Officer or his Deputy, for the orderly conduct of such election or poll, and the preservation of the public peace thereat, no person who hath not had a stated residence in the township or union of townships, or ward, or subdivision, for at least six months next before the day of such election, shall come during any part of the day, upon which such poll is to remain open, into such township or union of townships, ward, or subdivision, armed with offensive weapons of any kind, as fire arms, swords, staves, bludgeons, or the like; nor shall any person whomsoever being in such township, union of townships, ward, or subdivision, arm himself, during any part of such day, with any such offensive weapons, and thus armed approach within the distance of two miles of the place where the poll for such subdivision is held, unless called upon to do so by lawful authority.

With certain exceptions, no stranger to come armed into any parish, etc., while the poll is open;

nor armed person to approach within two miles of the poll.

**63.** No candidate for the representation of any electoral division, or any other person, shall furnish or supply any ensign, standard, or set of colours, or any other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such electoral division, on the day of election, or within eight days before such day, or during the continuance of such election or polling, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate; nor shall any person for any reason carry or use any such ensign, standard, set of colours, or other flag, as a party flag, within such electoral division on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

Party ensigns, flags, etc., not to be carried during the election or within eight days before it.

**64.** No candidate for the representation of any electoral division, or any other person, shall furnish or supply any ribbon, label, or the like favor, to or for any person whomsoever, with intent that the same should be worn or used within such electoral division on the day of election or polling, or within eight days before such day, or during the continuance of such election, by such person or any other as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate; nor shall any person use or wear any ribbon, label,

Party badges, etc., not to be used during like time.

label, or other favor, as such badge, within such electoral division, on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

Penalty.

**65.** Every person offending against any of the provisions of the four next preceding sections, shall incur a penalty of one hundred dollars.

All taverns,  
etc., to be  
closed during  
the polling  
day.

**66.** Every hotel, tavern and shop in which spirituous or fermented liquors or drinks are ordinarily sold, shall be closed, during the day appointed for polling, in the wards or municipalities in which the polls are held; and no spirituous or fermented liquors or drinks shall be sold or given to any person within the limits of such municipality during the said period, under a penalty of one hundred dollars in every such case.

Penalty.

#### PREVENTION OF CORRUPT PRACTICES AT ELECTIONS.

Certain acts to  
be bribery.

**67.** The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

Giving money,  
etc., to voters.

(1.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give, lend or agree to give or lend, or shall offer or promise any money or valuable consideration, or promise or endeavour to procure any money, or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at any such election.

Procuring  
office, etc., for  
voters;

(2.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer or promise, any office, place or employment, or promise to procure, or to endeavour to procure any office, place or employment to or for any voter or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

or for persons  
influencing  
voters.

(3.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in parliament, or the vote of any voter at any election.

Corruptly in-  
fluencing  
voters.

(4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procure

cure or engage, promise or endeavor to procure, the return of any person to serve in parliament or the vote of any voter at any election.

(5.) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay, or cause to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election. Advancing or paying money for bribery.

(6.) Any person so offending shall incur a penalty of two hundred dollars: Provided always, that the actual personal expenses of any candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertizing, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. Penalty. Proviso.

**68.** The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:— Certain acts by voters to be bribery.

(1.) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election. Contracting to vote for money, etc.

(2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration, on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any election. Receiving money to vote.

2. Any person so offending shall incur a penalty of two hundred dollars. Penalty.

**69.** If any person elected or returned to the Legislative Assembly is proved guilty, before any election committee, of using any of the above means to procure his election, his election shall thereby be declared void, and he shall be incapable of being a candidate, or being elected or returned, until the next general election. Election of party guilty of bribery void.

**70.** Upon its being proved before any election committee of the Legislative Assembly, at the trial of any contested election, that any elector voting at the said election was bribed, his vote shall be null and void, and he shall be disqualified from voting at the next general election. Votes corruptly given void.



Hiring of vehicles by candidates to convey electors illegal.

Penalty.

Penalty for electors so doing.

**71.** And whereas doubts may arise as to whether the hiring of teams and vehicles to convey electors to and from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law, it is declared and enacted, that the hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any candidate, or by any person on his behalf, to convey voters to or near or from the poll, or from the neighborhood thereof, at any election, or the payment by any candidate, or by any person on his behalf, of the travelling and other expenses of any voter in going to or returning from any election, shall be illegal acts; and the person so offending shall thereby incur a penalty of one hundred dollars; and any elector who shall hire any horse, cab, cart, waggon, sleigh, carriage, or other conveyance for any candidate, or for any agent of a candidate, for the purpose of conveying electors to or from the polling place or places, shall *ipso facto* be disqualified from voting at such election, and for every such offence shall incur a penalty of one hundred dollars.

Persons using violence, etc., to be guilty of undue influence.

Penalty.

**72.** Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict, or threaten the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practise intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with, the free exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon any voter either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall incur a penalty of two hundred dollars.

Persons not excused from answering before committees, etc., on the ground that answers may criminate.

**73.** No person shall be excused from answering any question put to him in any action, suit, or other proceeding in any Court, or before any Judge, commissioner, or select committee, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person, other than an indictment for perjury, if the Judge, commissioner, or chairman of the committee, shall give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers, to the satisfaction of the Judge, commissioner or committee.

Contracts

**74.** Every executory contract or promise or undertaking, in any

any way referring to, arising out of, or depending upon, any election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back any money paid for lawful expenses connected with such election.

## PENALTIES AND PUNISHMENTS.

**75.** If any person unlawfully, either by violence or stealth, takes from any Deputy Returning Officer or Poll Clerk, or from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, or makes or causes to be made any erasure, addition of names or interlineation of names, in, to or upon, or aids, counsels or assists in so taking, destroying, injuring or obliterating or making any erasures, addition of names, or interlineation of names, in, to or upon, any list of voters or any writ of election, or any return to a writ of election, or any poll book, certificate or affidavit, or any other document or paper, made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, every such offender shall incur a penalty of two thousand dollars.

Persons stealing, unlawfully taking or falsifying documents relating to elections, etc.

Penalty.

**76.** Every person who aids, abets, counsels or procures the commission of any such violation of this Act, as in the next preceding clause mentioned, shall incur a penalty of two thousand dollars.

Abettors punishable as principals.

**77.** All penalties imposed by this Act shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt or information, in any of her Majesty's Courts in this Province having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period to be fixed by such Court, such offender shall be imprisoned in the common goal of the place until he has paid the amount which he has been so condemned to pay and the costs.

How penalties under Act recoverable, and payment enforced.

2. It shall be sufficient for the plaintiff, in any action or suit given by this Act, to state in the declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant had acted contrary to this Act, without mentioning the writ of election or the return thereof.

Statement in the declaration.

3. It shall not be necessary on the trial of any suit or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the Returning Officer founded upon

Writ, etc., need not be produced at trial.

upon any such writ of election, but general evidence of such facts shall be sufficient evidence.

Limitation of suits.

4. Every action, suit or information given by this Act, shall be commenced within the space of one year next after the act committed, and not afterwards.

#### FEES AND EXPENSES.

Fees for services, etc.

78. The fees hereinafter mentioned, and no other, shall be allowed to the several officers hereinafter mentioned, respectively, for their services and disbursements at any election, that is to say :—

#### RETURNING OFFICERS.—RURAL ELECTORAL DIVISION.

Returning officers.

(1.) Drawing proclamation.....*one dollar.*

(2.) Paid printing fifty copies.....*actual cost.*

(3.) Mileage on posting same, for each mile necessarily travelled, from place to place, to be taxed as sheriff's mileage on summoning jurors.....*ten cents per mile.*

(4.) Holding election and making return (if no contest), including appointment and swearing Election Clerk,.....*ten dollars.*

(5.) Election Clerk, one day,.....*two dollars.*

(6.) Two constables one day (each),.....*one dollar;—*

*And the following additional charges in contested cases:—*

(7.) Appointing deputies, and swearing them (each,).....*fifty cents.*

(8.) Furnishing poll books, and copies of voters' lists, when necessary, actual cost not exceeding,..... *ten cents for thirty names.*

(9.) Mileage to deliver same to deputies, when necessary; only one mileage for both, to be taxed as above per mile,.....*ten cents.*

(10.) Making up and transmitting returns to the Clerk of the Crown in Chancery (including duplicates to each candidate, and all other necessary services connected therewith),.....*ten dollars.*

(11.) Copy of poll books to be deposited in Registry Office, actual cost not exceeding,.....*ten cents for every thirty names.*

(12.)



(12.) For services under clauses fifty-three and fifty-four, such amount as the Lieutenant Governor may think reasonable under the circumstances of the case.

(13.) Postage,.....*amount actually paid out.*

(14.) Pay of Election Clerk, one day,.....*two dollars.*

(15.) Mileage of Returning Officer and Election Clerk, going to and returning from the election on nomination day (each), ..... *ten cents for every mile necessarily travelled.*

DEPUTY RETURNING OFFICERS.

(16.) Taking the polls, including all the services connected therewith, and making returns, .....*four dollars.* Deputy returning officers.

(17.) Paid Poll Clerk, one day.....*two dollars.*

(18.) Paid one constable, one day,.....*one dollar.*

(19.) For each polling booth, *actual cost, not exceeding four dollars*, to be paid by the township Treasurer, on the order of the Deputy Returning Officer, unless the township council shall provide suitable polling places at their own expense.

IN CITIES AND TOWNS.

(20.) To Returning Officers in cities and towns, holding election and making returns when no contest (exclusive of actual charge for printing), .....*ten dollars.* Fees in cities, etc.

(21.) When election contested (exclusive of actual charge for printing), .....*twenty dollars.*

(22.) To Deputy Returning Officers, Election Clerks, Poll Clerks and Constables, the same charge as at rural elections; and the like charge, paid in the same manner, for polling booths, as in rural polling places; which said fees, allowances and disbursements shall be paid over to the Returning Officer, by warrant of the Lieutenant Governor, directed to the Treasurer of the Province, out of the Consolidated Revenue Fund of the Province, and shall be distributed by such Returning Officer to the several officers and persons entitled to the same under the provisions of this Act, which distribution he shall report to the Lieutenant Governor through the Provincial Secretary. How fees to be paid and accounted for.

MISCELLANEOUS PROVISIONS.

79. Any person before whom it is hereby required that any oath be taken, or any affirmation made in the manner herein provided, shall administer such oath or affirmation gratuitously. No charge for oaths, etc.

To whom  
copies of Act  
to be sent.

**80.** One copy of this Act (with a copious alphabetical index prefixed) for the Returning Officer, and one for each of his Deputies, shall be transmitted, with the writ of election, to each Returning Officer.

Meaning of  
term "Elec-  
toral divi-  
sion."

**81.** The expression "Electoral division" in this Act, means any county, or other place or portion of this Province, entitled to return a member to the Legislative Assembly.

Short title.

**82.** This Act may be cited as *The Election Law of 1868*.

### SCHEDULE 1.

FORM A, REFERRED TO IN THE TWENTIETH SECTION OF THIS ACT.

*Proclamation of the Returning Officer declaring the time and place fixed for the opening of the election, and also the day for opening the poll.*

#### PROCLAMATION.

County (Riding, City, Town or Electoral Division, as the case may be) of \_\_\_\_\_, to wit:

Public Notice is hereby given to the Electors of the County, (or as the case may be) of \_\_\_\_\_, that, in obedience to Her Majesty's Writ to me directed, and bearing date the \_\_\_\_\_ day of the month of \_\_\_\_\_, I require the presence of the said Electors at \_\_\_\_\_ in the County (or Township, or in the City or Town) of \_\_\_\_\_ (here describe the place distinctly, whether the Election be for a County or for any other Electoral Division), on the \_\_\_\_\_ day of the month of \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for the purpose of electing a person (or persons, as the case may be), to represent them in the Legislative Assembly of this Province; and that in case a Poll be demanded and allowed in the manner by law prescribed, such Poll will be opened on the \_\_\_\_\_ day of the month of \_\_\_\_\_, in the year \_\_\_\_\_, in each of the Townships, Wards, or Polling Subdivisions in which a Polling place is to be opened and kept according to law, of which due notice will be given on the Day of Nomination. Of all which every person is hereby required to take notice and to govern himself accordingly.

Given under my hand at \_\_\_\_\_, this \_\_\_\_\_ day of the month of \_\_\_\_\_, in the year 18 \_\_\_\_\_.

(Signature.)

A. B.

Returning Officer.

## 2.

OATH NO. 1, REFERRED TO IN THE TWENTY-FIRST SECTION OF  
THIS ACT.

*Oath of the Returning Officer.*

I, the undersigned, A. B., Returning Officer for the County  
(or Riding, or as the case may be) of \_\_\_\_\_ solemnly swear (or,  
if he be one of the persons permitted by law to affirm in civil  
cases, solemnly affirm) that I am legally qualified according to  
law to act as Returning Officer for the said County (or Riding,  
or as the case may be) of \_\_\_\_\_, and that I will act faithfully in  
that capacity, without partiality, fear, favor or affection; so  
help me God.

(Signature.) A. B.  
Returning Officer.

## 3.

FORM B, REFERRED TO IN THE TWENTY-FIRST SECTION OF THIS  
ACT.

*Certificate of the Returning Officer having taken the Oath  
of Office.*

I, the undersigned, hereby certify that on the \_\_\_\_\_ day of  
the month of \_\_\_\_\_, 18\_\_\_\_, A. B., the Returning Officer  
for the County (or as the case may be) of \_\_\_\_\_, took,  
and subscribed before me the Oath (or Affirmation) of office in  
such case required of a Returning Officer by the twenty-first  
section of "The Election Law of 1868."

In testimony whereof, I have delivered to him this Certificate.

(Signature.) C. D.  
Justice of the Peace.

## 4

FORM C, REFERRED TO IN THE TWENTY-SECOND SECTION OF  
THIS ACT.

*Commission of an Election Clerk.*

To E. F. (set forth his legal addition and residence.)

Know you, that in my capacity of Returning Officer for the  
County (or as the case may be) of \_\_\_\_\_, I have  
appointed and do hereby appoint you to be my Election Clerk,  
to



to act in that capacity according to law at the approaching  
 Election for the said County (*or as the case may be*) of \_\_\_\_\_,  
 which Election will be opened by me on the  
 day of the month of \_\_\_\_\_, 18 \_\_\_\_.

Given under my hand this \_\_\_\_\_ day of the month of  
 \_\_\_\_\_, in the year 18 \_\_\_\_.

(*Signature.*) A. B.  
 \_\_\_\_\_  
 Returning Officer.

5

OATH NO. 2, REFERRED TO IN THE TWENTY-SECOND SECTION  
 OF THIS ACT.

*Oath of the Election Clerk.*

I, the undersigned E. F., appointed Election Clerk for the  
 County (*or as the case may be*) of \_\_\_\_\_, solemnly  
 swear (*or, if he be one of the persons permitted by law to affirm,*  
 solemnly affirm), that I will act faithfully in my said capacity  
 as Election Clerk, and also in that of Returning Officer, if re-  
 quired to act as such, according to law, without partiality, fear  
 favor or affection; so help me God.

(*Signature.*) E. F.  
 \_\_\_\_\_  
 Election Clerk.

6.

FORM D, REFERRED TO IN THE TWENTY-SECOND SECTION OF  
 THIS ACT.

*Certificate of the Election Clerk having taken the  
 Oath of Office.*

I, the undersigned, hereby certify that on the \_\_\_\_\_ day  
 of the month of \_\_\_\_\_, 18 \_\_\_\_, E. F., Election Clerk for the  
 County (*or as the case may be*) of \_\_\_\_\_, took and sub-  
 scribed before me the Oath (*or Affirmation*) of office required in  
 such case of an Election Clerk, by the twenty-second section of  
 "The Election Law of 1868."

In testimony whereof, I have delivered to him this Certifi-  
 cate under my hand.

(*Signature.*) C. D.  
 \_\_\_\_\_  
 Justice of the Peace.

*or,* A. B.  
 \_\_\_\_\_  
 Returning Officer.

7.

## 7.

FORM E, REFERRED TO IN THE TWENTY-THIRD SECTION OF  
THIS ACT.

*Proclamation which the Returning Officer is to cause to be read  
at the Hustings, on the day of the opening of the Election.*

OYEZ. OYEZ. OYEZ.

All persons are commanded and strictly enjoined to keep  
silence while Her Majesty's Writ for the present Election is  
publicly read, under the pains and penalties in such case  
provided.

## 8.

FORM F, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS  
ACT.

*Commission of a Deputy Returning Officer.*

To. G. H. (*insert his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the  
County (*or as the case may be*) of  
I have appointed and do hereby appoint you to be Deputy  
Returning Officer, for the Polling Subdivision of the  
Township (*or as the case may be*) of , in the said  
County (*or as the case may be*) of , there to take and record  
the votes of the Electors according to law, at the Polling place  
to be by you opened and kept for that purpose, and you are  
hereby authorized and required to open and hold the Poll of  
such Election for the Polling Subdivision of the Town-  
ship (*or as the case may be*) on the  
day of the month of , at nine o'clock in the  
forenoon, at (*here describe particularly the place in which the  
Poll is to be held*), and there to keep the said Poll open during  
the hours prescribed by law, and to take and record at the said  
Polling place, in a Book which you will keep for that purpose,  
in the manner by law provided, the votes of the electors voting  
at the said Polling place, and to return to me the said Poll  
Book, signed with your hand and sealed with your seal, togeth-  
er with this commission, on or before the day of  
the month of , 18 .

Given under my hand, at , this  
day of the month of , in the year 18 .

(*Signature.*) A. B.  
Returning Officer.  
9.

## 9.

OATH NO. 3, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

*Oath of Deputy Returning Officer.*

I, the undersigned G. H., appointed Deputy Returning Officer for the Polling Subdivision of the Township (or as the case may be) of , in the County, (or as the case may be) of , solemnly swear (or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I will act faithfully, in my said capacity of Deputy Returning Officer, without partiality, fear, favor or affection; so help me God.

(Signature.) G. H.  
Deputy Returning Officer.

## 10.

FORM G, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

*Certificate of the Deputy Returning Officer (or, one of the Deputy Returning Officers, as the case may be), having taken the Oath of Office.*

I, the undersigned, hereby certify that on the day of the month of , G. H., Deputy Returning Officer for the Polling Subdivision of the Township (or as the case may be) of , in the County (or as the case may be) of , took and subscribed the oath (or affirmation) of Office required in such case of a Deputy Returning Officer, by the thirty-first section of "The Election Law of 1868."

In testimony whereof I have delivered to him this Certificate under my hand.

(Signature.) C. D.  
Justice of the Peace.  
or, A. B.  
Returning Officer.

## 11.

FORM H, REFERRED TO IN THE THIRTY-SIXTH AND THIRTY-SEVENTH SECTIONS OF THIS ACT.

*Commission of a Poll Clerk.*

To I. J. (insert his legal addition and residence.)

Know you, that in my capacity of Deputy Returning Officer for



for the                      Polling Subdivision of the Township (*or as the case may be*) of                      , in the County (*or as the case may be*) of                      , I have appointed and do hereby appoint you to be Poll Clerk for the said Polling Subdivision of the said Township of (*or as the case may be*).

Given under my hand, at                      this                      day  
of the month of                      , in the year 18                      .

(*Signature.*)                      G. H.  
Deputy Returning Officer.

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12.

OATH NO. 4, REFERRED TO IN THE THIRTY-SIXTH SECTION OF THIS ACT.

*Oath of a Poll Clerk.*

I, the undersigned, I. J., appointed Poll Clerk for the Polling Subdivision of the Township (*or as the case may be*) of                      in the County (*or as the case may be*), of                      , do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm*) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection; so help me God.

(*Signature.*)                      I. J.,  
Poll Clerk.

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13.

FORM J, REFERRED TO IN THE THIRTY-SIXTH SECTION OF THIS ACT.

*Certificate of the Poll Clerk having taken the Oath.*

I, the undersigned, hereby certify, that on the                      day of the month of                      , I. J., Poll Clerk for the                      Polling Subdivision of the Township (*or as the case may be*) of                      , in the County (*or as the case may be*) of                      , took and subscribed before me the oath (*or affirmation*) of office required of a Poll Clerk in such cases by the thirty-seventh section of "The Election Law of 1868."

In testimony whereof, I have delivered to him this certificate under my hand.

(*Signature.*)                      C. D.,  
Justice of the Peace.  
*or* A. B.,  
Returning Officer.  
*or* G. H.,  
Deputy Returning Officer.

## I4.

FORM L, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

## FORM OF A POLL BOOK.

Page Number . . . . .  
 (Signed), A. B.,  
 Deputy Returning Officer.

Number of the Voters.	NAMES OF THE VOTERS.	Their legal addition.	Their places of residence.	Owners.	Tenants or Occupants.	Description of Lots and Range or Concession, or otherwise, as the fact is.	Objections.	Sworn.	Voters refusing to take the Oath.	NAMES OF CANDIDATES.	A. B.	C. D.	E. F.	G. H.	J. K.	

I certify that the total number of names of persons whose votes are recorded on this page is  
 and the last is E. F.

, whereof the first name is C. D.,  
 A. B.,  
 Deputy Returning Officer.

(Signed),

## 15.

FORM M, REFERRED TO IN THE FORTY-NINTH SECTION OF THIS ACT.

*Oath of the Poll Clerk after the closing of the Poll.*

I, the undersigned, Poll Clerk for the                      Polling Subdivision of the Township (*or as the case may be*) of                      , in the County (*or Riding, City or Town as the case may be*), do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, do solemnly affirm*) that the Poll Book kept in and for the said                      , (*as the case may be*), under the direction of G. H., who has acted as Deputy Returning Officer therein, has been so kept by me under his direction as aforesaid, correctly and to the best of my skill and judgment; and that the total number of voters polled in such Poll Book is the number of                      whereof C. D., a Candidate, has polled                      votes, E. F., a Candidate, has polled                      votes (*and so on, as the case may be*), and that, to the best of my knowledge and belief, it contains a true and exact record of the votes given at the Polling Place in the said                      , (*as the case may be*) as the said votes were taken at the said Poll by the said Deputy Returning Officer.

(*Signature.*)                      I. J.  
Poll Clerk.

Sworn (*or affirmed*) and subscribed before me, at                      ,  
this                      day of the month of                      , in the year                      .

(*Signature.*)                      X. Y.  
Justice of the Peace.

*or, A. B.*  
Returning Officer.

*or, G. H.*  
Deputy Returning Officer.

## 16.

FORM N, REFERRED TO IN THE FORTY-NINTH SECTION OF THIS ACT.

*Oath of the Deputy Returning Officer after the closing of the Poll.*

I, the undersigned, Deputy Returning Officer, for the Polling Subdivision of the Township (*or as the case may be*) of                      in the County (*or Riding, City or Town,*



Town, (*as the case may be*) of  
do solemnly swear, (*or, if he be one of the persons permitted by  
law to affirm in civil cases, do solemnly affirm*), that, to the best  
of my knowledge and belief, the Poll Book kept for the said  
, (*as the case may be*) under my direction, hath  
been so kept correctly; and that the total number of votes  
polled in such Poll Book is , whereof C. D., a  
Candidate, has polled votes, (*and so on as the  
case may be*), and that, to the best of my knowledge and belief,  
it contains a true and exact record of the votes given at the  
Polling Place in the said , (*as the case may be*),  
as the said votes were taken at the said Polling Place.

(*Signature.*) G. H.  
Deputy Returning Officer.

Sworn before me at , in the County of  
, this day of  
18 .

X. Y.  
Justice of the Peace.

or, A. B.  
Returning Officer.

(*as the case may be.*)

# 17.

## FORM O, REFERRED TO IN THE FORTY-FIRST SECTION OF THIS ACT.

You swear (*or solemnly affirm*) that you are the person  
named (*or purporting to be named, by the name of*  
) on the list of voters now shown unto you (*showing the  
list to the voter*); that at the time of the last final revision and  
correction of the Assessment Roll on which this list is based,  
for this Township (City or Town *as the case may be*), you were  
(*and, if the fact be so, still are*) actually, truly and in good faith  
possessed to your own use and benefit as owner (*or tenant, or  
occupant, as the case may be*), of the real estate in respect of  
which your name (*or the said name of*) is en-  
tered on the said list of voters (*or, if the party has parted with  
such possession, then insert these words, "that you are still a  
resident of this Electoral Division"*) and as such entitled  
to vote at this Election; that you are a subject of Her  
Majesty by birth or naturalization; that you are of  
the full age of twenty-one years; that you have not voted before  
at this Election, either at this or any other Polling place; and  
that you have not received anything, nor has anything been  
promised you, either directly or indirectly, either to induce you  
to vote at this Election, or for loss of time, travelling expenses,  
hire

hire of team, or any other service connected therewith; so help you God.

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18.

OATH R, REFERRED TO IN SUBSECTION OF SECTION FORTY-ONE.

You swear (or solemnly affirm) that you are A.  
B. ; that you are a subject of Her Majesty by birth or naturalization; that you have had a stated residence in the District of Algoma for at least one year next previous to the date of the writ of election; that you are a householder in the said District; that you are of the full age of twenty-one years; that you have not voted before at this Election, either at this or any other Polling place; that you have not received anything, nor has anything been promised you directly or indirectly, either to induce you to vote at this Election, or for loss of time, travelling expenses, hire of team, or any other service connected with the said Election; so help you God.

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CAP. XXII.

An Act to amend Chapter Fifteen of the Consolidated Statutes of Upper Canada, entitled *An Act respecting County Courts*.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section two of chapter fifteen of the Consolidated Statutes of Upper Canada, entitled *An Act respecting County Courts*, is hereby repealed. Sec. 2, chap. 15, Con. Stat. U. C., repealed.

2. Section three of the said chapter fifteen of the Consolidated Statutes of Upper Canada is hereby repealed, and the following clause enacted in lieu thereof:—"The Judges of the several County Courts, holding office when this Act takes effect, as well as the Judges hereafter to be appointed, shall hold their offices during pleasure; and shall be subject to be removed by the Lieutenant Governor for inability, incapacity, or misbehaviour, established to the satisfaction of the Lieutenant Governor in Council, any thing in *The Interpretation Act*, or any other Act, to the contrary notwithstanding."

No Junior Judges to be appointed.

3. After the passing of this Act, no Junior Judge shall be appointed in or for any county or union of counties in Ontario.

Sec. 6, chap. 15, Con. Stat. U. C., repealed.

4. Section six of the said chapter fifteen of the Consolidated Statutes of Upper Canada is hereby repealed, and the following is enacted in lieu of the same, and shall be read and construed as if it had originally formed a part of the said Act instead of the sixth clause hereby repealed:—"The Junior

Junior Judge to preside over Division Courts, and in case of death, etc., of Judge.

Judge of any county may preside over all or any of the Division Courts within the county, and shall, as regards any such Division Courts, have the same duties, powers and authorities as the Judge; and, in case of the death, illness or unavoidable absence, or absence on leave, of the Judge, such Junior Judge shall, during the vacancy caused by the death of the Judge, and during such illness or absence, hold the County Court and Surrogate Court, and shall perform and discharge all the ordinary duties and functions of, and shall exercise all the powers vested in, and do all the acts required or allowed to be done by, any Judge of such County or Surrogate Court."

Either or both Judges to preside in either Court, or one in each Court simultaneously.

5. At any sittings of the said Courts and of the Courts of General Sessions of the Peace, either the Senior or Junior Judge, or both of them, may, if the Senior Judge shall think fit, preside in either of the said Courts, or one of them in each of said Courts at the same time, so that both of the said Courts may sit and the business therein be proceeded with simultaneously.

## CAP. XXIII.

An Act to amend the Acts respecting Division Courts.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS it is necessary and expedient to amend the Acts respecting Division Courts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Judgments of Division Courts same force as of Courts of Record.

1. All judgments in the Division Courts in this Province shall have, and continue to have, the same force and effect as judgments of Courts of Record.

Final judgment entered by the clerk, when claim not disputed, etc.

2. In actions brought in any Division Court for the recovery of any debt or money demand, where the particulars of the plaintiff's claim, with reasonable certainty and detail, is indorsed on, or attached to the summons, and a copy of such summons and particulars,



particulars, with a notice in the form A in the schedule to this Act, annexed to or indorsed on such copy, be duly served, according to the practice of such Courts, then, unless the defendant shall have left with the clerk, within eight days after the day of such service when the service is required to be ten days before the return, and within twelve days after the day of such service when the service is required to be fifteen days or twenty days before the return, a notice to the effect that he disputes the claim, or some part, and how much thereof, final judgment may be entered by the Clerk on or at any time within one month after the return of such summons, for the amount claimed in such particulars, or so much thereof as has not been disputed, if the plaintiff is content with judgment for such part; and execution may afterwards issue thereon at the instance of the plaintiff: Provided that the Judge may set aside such judgment, and permit the case to be tried, on sufficient grounds shown, on such terms as to costs and otherwise as he shall think just.

3. The final judgment so entered may be in the form B in the said schedule, but no such judgment shall be so entered until the summons and particulars, with an affidavit of the due service of both, have been filed. Summons, particulars and affidavit to be filed.

4. The Judge, at any time before judgment actually entered, although the time for giving such notice disputing the plaintiff's claim has expired, may, on sufficient grounds shown, and on such terms as he shall think just, grant leave to the defendant to dispute the plaintiff's claim, in which case the requisite notice disputing such claim shall immediately be left with the Clerk, and also sent to the plaintiff, by prepaid letter through the post or otherwise. Leave to dispute at any time before judgment.

#### TO GARNISHEE DEBTS.

5. When any debt or money demand of the proper competence of the Division Court, and not being a claim strictly for damages, is due and owing to any party from any other party, either on a judgment of any Division Court or otherwise, and any debt is due or owing to the debtor from any other party, it shall be lawful for the party to whom such first mentioned debt or money demand is so due and owing (hereinafter designated the Primary Creditor), to attach and recover, in the manner herein provided, any debt due or owing to his debtor (hereinafter designated the Primary Debtor), from any other party (hereinafter designated the Garnishee), or sufficient thereof to satisfy the claim of the Primary Creditor, subject always to the rights of other parties to the debts owing from such Garnishee. To garnishee debts.

#### WHERE THE PRIMARY CREDITOR'S CLAIM IS A JUDGMENT.

6. After a judgment has been recovered in a Division Court, Attaching order to be granted  
G application

ted on judgment.

application may be made to a Judge of such Court, by or on behalf of the Primary Creditor, on affidavit that such judgment was recovered, and when, and that the whole, or some part, and how much thereof, remains unsatisfied, and that the deponent has reason to believe, and does believe, that some one or more parties (naming them, or stating that he is unable to name them), is or are within this Province, and is or are indebted to the Primary Debtor, for an attaching order, (which such Judge is hereby authorized to make), to the effect that all debts owing to the Primary Debtor, whether due or not due, be attached to satisfy such judgment; which order may be in the form C in the said schedule.

Service thereof to bind all debts, etc.

2. The service of such order on any Garnishee shall have the effect (subject to the rights of other parties), of attaching and binding in his hands all debts then owing from him to the Primary Debtor, or sufficient thereof to satisfy such judgment, and a payment by the Garnishee into the Court, or to the Primary Creditor, of the debt so attached to the extent unsatisfied on such judgment, shall be a discharge to that extent of the debt owing from the Garnishee to the Primary Debtor.

Garnishee may pay in his own discharge.

Payment to any but primary creditor void.

3. Any payment by the Garnishee, after service on him of such order, to any one other than the Primary Creditor, or into Court, to satisfy the said judgment, shall, to the extent of the Primary Creditor's claim, be void; and the Garnishee shall be liable to pay the same again, to the extent of the Primary Creditor's claim, to satisfy his said judgment.

Primary creditor may summon garnishee, etc.

4. Whether any such attaching order shall or shall not have been made, the Primary Creditor may cause to be sued out of the Division Court for the division in which the Garnishee, or one or more of them, if there be joint Garnishees, resides or carries on business, a summons in the form D in the said schedule, upon or annexed to which shall be a memorandum showing the names of the parties as designated in the judgment, the date when, and the Court in which, it was recovered, and the amount unsatisfied; which summons shall be returnable either at any ordinary sittings of such Court, or at such other time and place (to be named therein), as the Judge shall permit or appoint, either by a general order for the disposal of such matters or otherwise.

How to be served, etc.

5. A copy of such summons and memorandum shall be duly served on the Garnishee, or, if there be joint Garnishees, then on such of them as may be in reach of the process, at the time and in manner required for the service of summonses in ordinary suits for corresponding amounts, and also on the Primary Debtor, if thought advisable, or if required by the Judge.

Judgment at hearing.

6. At the hearing of the summons, or at any adjourned hearing, on sufficient proof of the amount owing by the Garnishee

nishee to the Primary Debtor, and no sufficient cause appearing why it should not be paid and applied in satisfaction of the judgment, the Judge may give judgment against the Garnishee (which may be in the form E in the said schedule), for the amount so owing from him, or sufficient thereof to satisfy the judgment; and execution against the Garnishee to levy the same, may issue thereon as of course if due, or when and as it becomes due, or at such later period as the Judge shall order, which execution may be according to the form F in the said schedule.

#### WHEN THE PRIMARY CREDITOR'S CLAIM NOT A JUDGMENT.

7. When judgment has not been recovered for the claim of the Primary Creditor, he may cause a summons to be issued out of the Division Court of the division in which the Garnishee, or one or more of them, if there be joint Garnishees, live or carry on business, in the form G in the said schedule, upon or annexed to which shall be a memorandum, showing the names of the Primary Creditor, the Primary Debtor, and of the Garnishee, and the particulars of the claim of the Primary Creditor, with reasonable certainty and detail; which summons shall be returnable as required by the fourth sub-section of section six of this Act, in respect to summonses therein mentioned.

When no judgment, summons on garnishee, etc., to issue.

2. A copy of such summons and memorandum shall be duly served on the Garnishee, or if there be joint Garnishees, then on such of them as are within reach of the process, at the time and in the manner required for service in ordinary cases; and also if practicable, on the Primary Debtor, unless the Judge shall, for sufficient reason, dispense therewith.

Service thereof.

3. If in such case the Primary Debtor has been duly served with a copy of such summons and memorandum, judgment (in the usual form in other cases) may be given against him at the hearing for the Primary Creditor, for the whole, or such part of the claim as shall be sufficiently proved, and execution may afterwards issue thereon as in other cases; and whether such judgment be or be not given, the Judge, on sufficient proof of the debt due and owing from the Primary Debtor, and also of the amount owing to him from the Garnishee, may then, or at any adjourned hearing, give judgment against the Garnishee, (which may be according to the form H in the said schedule), for the amount so found due from the Garnishee, to the extent of the amount so found due from the Primary Debtor, which sum the Garnishee shall pay into court, or to the Primary Creditor, towards the satisfaction of such claim, or in default thereof, execution may issue to levy the same forthwith, or at such later period as the Judges shall direct, which execution may be according to the form I in the said schedule.

Judgment in such case.

#### GENERAL PROVISIONS.

8. In all cases under this Act, and whether the claim of the All parties Primary



interested may  
show cause,  
etc.

Primary Creditor be or be not a judgment, the Primary Debtor, the Garnishee, and all other parties in any way interested in, or to be affected by, the proceeding, shall be entitled to set up any defence, as between the Primary Creditor and the Primary Debtor, which the latter would be entitled to set up in an ordinary suit, and also any such defence as between the Garnishee and the Primary Debtor; and may also show any other just cause why the debt sought to be garnished should not be paid over or applied in or towards the satisfaction of the claim of the Primary Creditor: Provided that as to any statutory defence, notice thereof shall have been given to the Primary Creditor at the time and in the manner required in respect to such notice in ordinary cases.

Proviso.

Service of  
summons on  
garnishee to  
bind debt un-  
til hearing,

9. In all cases under this Act, (except when an attaching order has been served, already provided for), service of the summons on the Garnishee shall have the effect of attaching and binding in his hands (subject to the rights of other parties), the debt sought to be garnished, from the time of such service until a final decision made on the hearing of such summons; and any payment of such debt by the Garnishee during such period, to any one other than the Primary Creditor, or into Court for satisfying his claim shall, to the extent of such claim, be void, and the Garnishee shall be liable to pay the same again to the extent of such claim, to satisfy the same, unless the Judge shall otherwise order.

and after  
judgment.

10. If judgment be given for the Primary Creditor against the Garnishee, the debt garnished shall, unless the Judge shall otherwise order, continue bound in the hands of the Garnishee to satisfy the claim of the Primary Creditor; and payment in such case by the Garnishee of such debt to the extent of such claim, either into Court or to the Primary Creditor, shall, to that extent, be a discharge to the Garnishee, as between him and the Primary Debtor; and any payment thereof, otherwise than last aforesaid, except by leave of the Judge, shall be void; and the Garnishee in such case shall be liable to pay the same again to satisfy the claim of the Primary Creditor.

Costs.

11. The Garnishee shall not be liable for the costs of the proceeding, unless and in so far only as occasioned by setting up a defence, which he knew, or ought to have known, was untenable; and, subject to this provision, the costs of all parties shall be in the discretion of the Judge.

Summons and  
memorandum  
of particulars  
filed.

12. Judgment shall not be given either against the Primary Debtor or the Garnishee until the said summons and memorandum, with an affidavit of the due service of both on the proper parties, be filed, unless the Judge for special reasons shall order otherwise.

No execution

13. No execution shall in any case issue to levy the money owing

owing from any Garnishee until, and so far only as, such money shall have become fully due. till garnishee's debt due.

**14.** Any party entitled to or interested in any money or debt attached or bound in the hands of the Garnishee by a proceeding under this Act, may, at any time before actual payment thereof by the Garnishee, apply to the Judge for an order (which the Judge is hereby authorized to make), to the effect that such money or debt be discharged from the claim of the Primary Creditor; and thenceforth such money or debt shall cease to be attached or bound for such claim; and such an application and such an order may also be made if the Judge shall think fit, after such money or debt has been paid over by the Garnishee, in which case all parties shall be remitted to their original rights in respect thereto, except as against the Garnishee having already paid such debt or money, whose payment shall not be affected thereby, but shall be and remain an effectual discharge to him. Application to discharge debt from attachment.

**15.** If the Judge, on the hearing of any summons under this Act, or on special application for the purpose, shall think proper, he may, before giving judgment against the Garnishee, or at any time before actual payment by the Garnishee, order such security to be given as shall be approved by himself or the Clerk, by or on behalf of the Primary Creditor, for the repayment into Court to abide the Judge's order, in case a Judge's order shall be made for such repayment; which bond shall be to the Clerk by his name of office, and shall enure for the benefit of all parties interested in or entitled to the money, and may, by order of the Judge, and on such terms as to indemnity against costs and otherwise as he shall impose, be sued in the name of the Clerk of the Court for the time being, for the benefit of the party entitled. Security from primary creditor.

**2.** In case any one other than the Primary Creditor or Primary Debtor shall claim to be entitled to the debt owing from the Garnishee, by assignment thereof or otherwise, it shall be lawful for the Judge, when adjudicating in any of the cases aforesaid, or by calling the proper parties before him by summons for the purpose, to enquire into and decide upon such claim, and to allow or give effect to it, or to hold it void as against the Primary Creditor for being a fraud upon creditors, or otherwise, as the justice of the case shall require; and for such purpose he may require the attendance of such parties and such witnesses (their conduct money being first paid), as he shall think necessary. Cases of adverse claims.

**16.** It shall be lawful for the Judge to postpone or adjourn, from time to time, the hearing and other proceedings in all Garnishee cases, to allow time for giving omitted notices of defence, or to produce further evidence, or for any other purpose; and to require service on, and notice to, other or additional parties, and Judge may postpone or adjourn proceedings.

and to prescribe and devise forms for any proceeding, and to amend all summonses, memoranda, claims, accounts, notices and other papers and proceedings, and copies thereof, as justice shall require.

Sec. 93, chap.  
19, Con. Stat.  
U. C. repeal-  
ed.

**17.** Section ninety-three of chapter nineteen of the Consolidated Statutes of Upper Canada, entitled, *An Act respecting the Division Courts*, is hereby repealed, and in lieu thereof it is hereby enacted, that when the set-off proved to the satisfaction of the Judge exceeds the amount shewn to be due to the plaintiff, the plaintiff shall be non-suited; or, in his election, judgment may be given for the defendant, in which latter case such set-off shall be thereby satisfied only to the amount found due the plaintiff, and no further; and the Judge, in such case, may adjudicate that a specified amount of such set-off be satisfied by such claim of the plaintiff; but such adjudication shall be no bar to the recovery of the residue of such set-off.

How process,  
etc., may be  
executed at a  
distance.

**18.** Notwithstanding any of the provisions of the said Act, when there is no bailiff of the Court in which the action is brought, or when any summons, execution, subpœna, process or other document, is required to be served or executed elsewhere than in the division in which the action is brought, they may, in the election of the party, be directed to be served and executed by the bailiff of the division in or near to which they are required to be executed, or by such other bailiff or person as the Judge, or Clerk issuing the same, shall order, and may, for that purpose, be transmitted by post or otherwise direct to such bailiff or person, without being sent to or through the Clerk.

Duties of  
bailiff and lia-  
bility of sure-  
ties.

**19.** In cases mentioned in the last preceding section, it shall be the duty of such bailiff to serve and execute all such summonses, executions, subpoenas, process and other documents, and make return thereof with reasonable diligence, and to pay over, on demand, all moneys by him levied or received thereon; and for neglect or default therein, in addition to any other remedy against such bailiff, he and his sureties shall be liable, on their covenant to the parties grieved, as if such summonses, executions, subpoenas, process and documents had issued from, or related to some suit in the Court of which he is bailiff.

Debt attach-  
ment book.

**20;** The Clerks of the several Division Courts shall keep in their respective offices a Debt Attachment Book, according to the form J in the said schedule, in which shall be correctly entered the names of parties, the dates, statements, amounts and other proceedings under this Act, as indicated by the said form, and copies of any entries made therein, may be taken by any one on application free of charge.

This and for-  
mer Act read  
as one Act.

**21.** The Division Courts' Act and this Act shall be read as one Act; and the powers conferred on Judges under the sixty-third section



section of the said Act, as amended by this Act, shall extend to the making and framing, from time to time, of rules and forms for the said Division Courts under this Act, and to altering and amending the same.

**22.** The Judges who may hereafter be appointed to frame general rules respecting the practice and proceedings in the Division Courts, shall be styled "The Board of County Judges," and shall have authority, from time to time, in addition to their present powers, to make rules also for the guidance of Clerks and bailiffs, and in relation to the duties and services to be performed, and to the fees to be received by them; and the said Board may, from time to time, alter or amend any rules or orders made for the Division Courts.

**23.** The Clerks and Bailiffs of the several Division Courts shall respectively perform the duties of their office as regulated by Act of Parliament and by rules or orders made by the Board of County Judges.

**24.** Section one hundred and forty-one of the Division Courts' Act is hereby amended by adding thereto the following words, which shall hereafter be read as part thereof, namely, "but may, from time to time, be renewed by the Clerk, at the instance of the execution creditor, for thirty days from the date of such renewal, in the same manner and with the same effect, as like writs from the Courts of Record may be renewed under the provisions of the Common<sup>1</sup> Law Procedure Act."

**25.** Section one hundred and thirty-nine of the Division Courts' Act is hereby amended by striking out the words "in any other County."

**26.** Section one hundred and seventy-five of the said Division Courts' Act is hereby amended by adding thereto the following words, namely, "but upon the application of either the attaching or execution creditor within fourteen days after the trial, the Judge may grant a new trial upon good grounds shown, as in other cases under the Act, upon such terms as he shall think reasonable, and in the mean time stay proceedings."

**27.** All Acts and parts of Acts, so far as they are inconsistent with this Act, are hereby repealed; but any Act previously repealed shall not be thereby revived.

## SCHEDULE.

### FORM A.

And also take notice that if the defendant disputes the plaintiff's



hereby summoned to appear at the sittings of this Court, to be held at                      on the                      day of                      A.D., (or before the Judge presiding at                      on the                      day of                      A.D.), at                      of the clock in the                      noon, to state and show whether or not you the said garnishee owe any, and what debt to the above named defendant, and why you should not pay the same into Court, or to the said plaintiff, to the extent due on the above mentioned judgment, to satisfy the same; and take notice that if you have any set-off or other statutable defence, as between you and the said defendant, you must give notice thereof six days before you are so required to appear. You, or any one interested, may also show any other cause why the said debt should not go to satisfy the said judgment.

Dated the                      day of                      , A.D.

Clerk.

FORM E.

In the	Division Court of the County of	
Between A	B      Plaintiff	} Judgment entered on the day of                      in the Division Court of the County of Amount unsatisfied, \$
	and	
C	D      Defendant,	
	and	
E	F      Garnishee.	

On hearing [all parties, or on hearing the above named (*the parties appearing*), the above named                      having made default, although duly summoned], it is adjudged that the said garnishee is indebted to the said defendant in \$                      now due (or coming due as follows                      ) which (or \$                      of which) ought to be paid and applied in satisfaction of the said judgment, and which it is adjudged that the said plaintiff do recover against the said garnishee, for levying whereof execution may issue at any time, (or, if the debt be not due, or time for payment be given, add) after                      from this date, unless the said garnishee shall sooner pay the said money into Court, or to the plaintiff to satisfy the said judgment.

Entered the                      day of                      A.D.

FORM F.

In the	Division Court of the County of	
Between A	B      Plaintiff	} Judgment recovered on the day of                      , A.D. in the Division Court of the County of Amount unsatisfied, \$
	and	
C	D      Defendant,	
	and	
E	F      Garnishee.	

(L.S.) Adjudged against the garnishee on the                      day of                      A.D.                      \$

To any bailiff of the                      Division Court of the County of                      of



of (or to G. H. specially authorized to execute this writ,) you are hereby required to levy of the goods and chattels of the above named garnishee (not exempt from execution), \$ money owing from him to the above named defendant, and which has been attached to satisfy the judgment in this case; and, what you shall have done herein, return with this writ immediately on the execution hereof.

Dated the                      day of                      A.D.

Clerk.

#### FORM G.

In the	Division Court of the County of	
Between A	B Primary Creditor,	} The said Primary Creditor claims from the said the Primary Debtor the follow- ing (or annexed) ac- count:
	and	
C	D Primary Debtor.	
	and	
E	F Garnishee.	

(giving the account or claim in detail.)

(L.S.) You, the above named Primary Debtor, are hereby summoned to appear at the sittings of this Court, to be held at on the                      day of                      A. D. (or at                      on the day of                      A. D. before the Judge then and there presiding) to answer the above named Primary Creditor, who sues you for the recovery of the annexed (or above written) claim, and you, the above named garnishee, are required to appear at the same time and place to state and show whether or not you owe any and what debt to the said Primary Debtor, and why you should not pay the same into Court, or to the said Primary Creditor, to the extent of his claim in satisfaction thereof; and take notice, that if either of you have any set-off, or other statutory defence, as between you, or as between the said Primary Debtor and the said Primary Creditor, you must give notice of all such defences to the said Primary Creditor six days before you are so required to appear. You, and all others interested, may also show any other cause why the debt owing from the said garnishee should not be paid and applied to satisfy the said claim of the said Primary Creditor.

Dated the                      day of                      A. D.

Clerk.

#### FORM H.

In the	Division Court of the County of	
Between A	B Primary Creditor,	}
	and	
C	D Primary Debtor,	
	and	
E	F Garnishee.	

On hearing (all parties or on hearing the above named Primary

mary Creditor, *or as the case is*, the above named Primary Debtor, *or as the case is*, having made default, although duly summoned) it is adjudged that the above named Primary Debtor is indebted to the above named Primary Creditor in \$ \_\_\_\_\_, besides the costs hereof allowed at \$ \_\_\_\_\_, and it is further adjudged that the said garnishee is indebted to the said Primary Debtor in \$ \_\_\_\_\_ now due (*or coming due as follows* \_\_\_\_\_), which to the extent of the said first mentioned sum ought to be applied in satisfaction thereof, and which it is adjudged that the said Primary Creditor do recover for that purpose against the said garnishee, for levying whereof execution may issue at any time, (*or if the debt be not due, or time for payment be given, add,*) after \_\_\_\_\_ from this date, unless the said garnishee shall sooner pay the same into Court, or to the said Primary Creditor in satisfaction as aforesaid.

Entered the \_\_\_\_\_ day of \_\_\_\_\_ A. D.

FORM I.

In the	Division Court of the County of
Between A	B Primary Creditor
	and
C	D Primary Debtor,
	and
E	F Garnishee.

Amount adjudged due from the Primary Debtor to the Primary Creditor the \_\_\_\_\_ day of \_\_\_\_\_ A.D. for debt, \$ \_\_\_\_\_  
for costs, \$ \_\_\_\_\_

(L.S.) Amount adjudged to the Primary Creditor for money owing from the garnishee the \_\_\_\_\_ day of \_\_\_\_\_ A.D. \$ \_\_\_\_\_

To any bailiff of the \_\_\_\_\_ Division Court of the County of \_\_\_\_\_  
(*or to G. H., specially authorized to execute this writ.*)

You are hereby required to levy of the goods and chattels of the above named garnishee, (not exempt from execution,) \$ \_\_\_\_\_ money owing from him to the above named Primary Debtor, and which has been adjudged to the above named Primary Creditor to satisfy his said claim against the Primary Debtor, and, what you shall have done herein, return with this writ immediately on the execution hereof.

FORM J.  
FORM OF DEBT ATTACHMENT BOOK.

Name of Primary Creditor.	Name of Primary Debtor.	Date of Judgment, if claim a Judgment.	Amount unsatisfied, if claim a Judgment.	Amount found due from Primary Debtor to Pri- mary Creditor when claim not a Judgment.	Name of Garnishee.	Amount adjudged against Garnishee.



## CAP. XXIV.

## An Act respecting the Court of Error and Appeal in the Province of Ontario.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The first section of the Act of the Parliament of Canada, passed in the twenty-fifth year of Her Majesty's reign, chapter eighteen, and entitled, *An Act respecting the Court of Error and Appeal in Upper Canada*, shall be amended by striking out the words "Upper Canada" where they occur in the said section, and inserting the word "Ontario" in lieu thereof, and by adding to the end thereof the words, "and shall be styled and addressed as the Chief Justice of Appeal." Stat. of Can. 25 Vic. chap. 18, sec. 1, amended.

2. The second section of the said Act shall be amended by striking out the words "Presiding Judge," and inserting the words "Chief Justice" in lieu thereof; and by striking out the words "Presiding Judge of the Court of Error and Appeal in Upper Canada," and inserting the words "Chief Justice of the Court of Error and Appeal in Ontario" in lieu thereof. Sec. 2 amended.

3. The fourth section of the said Act is hereby repealed, and the following provisions enacted in lieu thereof :— Sec. 4 repealed and new enactments.

4. From and after the passing of this Act, the said Court of Error and Appeal shall hold its sittings twice in every year at the City of Toronto, one of which sittings shall be held in the month of January, and the other in the month of June, upon such days as the said Court by rule or order may, from time to time, respectively name and appoint; and the Court may also adjourn such sittings from day to day, or for such longer period, as the Court may deem expedient; and the Court may permit cases to be entered, after the commencement of such sittings, for any adjourned sittings of the Court, and upon such notice to the respondents as the Court may fix, and may make such rules and orders therefor as they may deem necessary; and may also fix and appoint days for giving judgment in cases previously argued, and for disposing of such other business as the Court in its discretion shall see fit: Provided there shall be no sitting of the said Court, by adjournment or otherwise, between the first day of July and the twenty-first day of August in any year, save for the purpose of giving judgment in cases previously argued. Time of sitting. Cases to be entered for adjourned sittings by leave.

5. Notice of such respective rules or orders shall be given by Notice of rules, affixing

etc., how  
given.

affixing the same in some conspicuous place on the outside of the rooms where the sittings of the said Court are appointed to be held, and in the Judge's Chambers and Practice Court, and in the offices of the Master and Registrar of the Court of Chancery, and of the Clerks of the Crown and Pleas, in Osgoode Hall, ten days before the day appointed, which notice may be to the following effect :—

*"In the Court of Error and Appeal."*

Form of  
notice.

"This Court will, on the                      day of                      18                      , hold sittings, and will proceed on that day and the following days, in hearing and disposing of the cases mentioned in the following list, and in giving judgment in cases previously argued," [*or, if the Court sit only for giving judgment, or in giving judgment in cases previously argued,*] and in disposing of such other business as the Court in its discretion shall see fit.

*(List to be subjoined.)*

(Signed.)

Clerk.

Quorum.

6. From and after the passing of this Act, any six Judges of the said Court, of whom the Chief Justice of the said Court, or the Chancellor, or the Chief Justice of one of the Superior Courts of Common Law shall be one, shall constitute a quorum of the said Court for the dispatch of business: Provided that no more than two of the Judges whose judgment or decree is appealed from, shall sit on the hearing of such appeal.

Proviso.

Sec. 52 chap.  
13, Con. Stat.  
U. C., amend-  
ed.

7. So much of the fifty-second section of chapter thirteen of the Consolidated Statutes of Upper Canada as requires two months service of notice of appeal, is hereby repealed.

## CAP. XXV.

An Act to amend the Act passed in the Twenty-seventh and Twenty-eighth Victoria, Chapter Twenty-eight, entitled, "An Act respecting the Office of Sheriff, and to make further provision respecting the said Office."

*[Assented to 23rd January, 1869.]*

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

All books, etc

1. All books, accounts, records, papers, writs, warrants, processes,

cesses, moneys and other matters and things, in the possession or under the control of any Sheriff by virtue of, or appertaining to, his office as Sheriff, shall be the property of the Government of this Province, and the same and every of them shall, immediately upon the resignation, removal from office, or death of any such Sheriff, be, by the party in whose possession or control they may come or happen to be, handed over to, and taken possession of, by the successor in office of such Sheriff, or such person as the Lieutenant Governor shall appoint to receive the same.

to be the property of the Government.

2. It shall not be lawful for any person, except the successor in office of the Sheriff so resigning, being removed, or dying, or the person so to be appointed by the Lieutenant Governor as aforesaid, to take, have or hold any such books, accounts, records, papers, writs, warrants, processes, moneys, or other matters or things; but any person having or holding any of the matters aforesaid shall forthwith, on demand, deliver over the same and every of them to the said succeeding Sheriff, or to the person so to be appointed as aforesaid; and, upon any such person neglecting or refusing so to do, on conviction thereof, before the Judge of the County Court of the county in which the offence occurs, he shall be liable to pay a penalty to and for the use of Her Majesty of not less than ten dollars, nor more than fifty dollars, besides costs for every day he shall so neglect or refuse; and in default of the payment of the said penalty and costs, he shall be imprisoned in the county gaol of the county in which the conviction takes place, for a period not exceeding three calendar months, or until the said penalty and all costs shall have been fully paid.

No one but the succeeding sheriff to hold them on pain of fine and imprisonment.

Penalty.

3. Any person who has heretofore at any time held the office of Sheriff of any county in Upper Canada, now the Province of Ontario, if alive, and the heirs, executors and administrators of every such person, if dead, shall forthwith deliver over to the present Sheriff of such county all books, accounts, records, papers, writs, warrants, processes, and all other matters and things whatsoever in his or their possession, custody or power, and which such person or such Sheriff, by virtue of his office, kept, received, or became possessed of.

Former sheriff or his executors to deliver them to present sheriff.

4. If any Deputy Sheriff, bailiff or Sheriff's officer, shall have in his possession, custody or control, any writ of summons, *fiery facias*, or other writ, or any bench warrant or process whatsoever, and shall, upon demand, made by the Sheriff from whom the same may have been received, or his successor in office, or by any other party entitled to the possession of the same, neglect or refuse to deliver up the same, such Sheriff, or his successor in office, or the party entitled to the possession of the same, may proceed by summons and order before any Judge having jurisdiction in the Court out of which such writ or process issued, to compel the production thereof; which order may be enforced in the same manner as like orders

Deputy sheriffs or sheriff's officers to deliver over.

for



for return of writs against Sheriffs, and with or without costs, or be discharged with costs against the party applying, in the discretion of the Judge aforesaid.

Sheriffs resigning may examine and inspect.

5. Any Sheriff, after resigning office, or removal from office, or his heirs, executors, or administrators, shall or may, at any and at all time or times thereafter, have the right, and be at liberty to have access to, search and examine into any or all accounts, books, papers, writs, warrants and processes of whatever kind, and all other matters and things which were formerly in the possession of him, the said Sheriff, before his resignation or removal, and which, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding Sheriff, or the then Sheriff of the county, free of all costs, charges and expenses.

Certain books to be kept in sheriff's office,

6. After the passing of this Act, every Sheriff shall keep in his office the following books, namely, process books, in which shall be entered a memorandum of every process other than writs of execution, or writs in the nature of writs of execution received by the Sheriff, the Court out of which the same issued, the date of the receipt, the nature of the process, the name of the parties thereto, the Attorney by whom issued, the date of the return, and the nature of the return made thereto, or what was thereunder or therewith done respectively; execution books for goods and lands respectively, in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the Attorney by whom issued, the date of return, and the nature of the return made thereto, or what was done thereunder or therewith; and a cash book, in which shall be entered all cash received or paid away by the Sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied under execution, or under writs in the nature of writs of execution, or otherwise, the date of the receipt or payment, the cause, matter or service in which, or on account of which, the same was received or paid away.

To be paid for by county.

7. Immediately after the passing of this Act, it shall be the duty of every Sheriff to supply himself with the books in the next preceding section mentioned, and the cost thereof shall be paid by the county of which he is Sheriff.

## CAP. XXVI.

An Act to Repeal certain Acts and Enactments therein mentioned; and to Abolish the Court of Impeachment for the Trial of County Judges.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Chapter fourteen of the Consolidated Statutes of Upper Canada entitled *An Act respecting the Court of Impeachment*; and chapter thirty-eight of the Statutes of the late Province of Canada, passed at a session of Parliament held in the twenty-ninth and thirtieth years of Her Majesty's Reign, entitled *An Act to amend the Act respecting the Court of Impeachment for Upper Canada*, are hereby repealed: Provided always, that the repeal of the said Acts shall not affect, defeat or invalidate any proceedings that may have been had, instituted, prosecuted or concluded under the authority of the said Acts or either of them.

Chap. 14, Con. Stat. U. C., and 20 and 30 Vic., chap. 38, repealed.  
Proviso.

## CAP. XXVII.

An Act to Repeal and Amend certain Acts and Enactments herein mentioned.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Section three of chapter three of the Acts of the last session of the Legislature of this Province, entitled *An Act to establish a Consolidated Revenue Fund for the Province of Ontario*, is hereby repealed, and the following clause enacted in lieu thereof, which shall be read and construed as if it had originally formed part of the said Act, instead of the said clause hereby repealed, that is to say:—“The Legislative Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the Consolidated Revenue Fund, or of any other tax or impost, to any purpose which has not been first recommended by a message of the Lieutenant Governor to the said Legislative Assembly during

Sec. 3, chap. 3, 31 Vic., repealed.  
Appropriation of any part of Consolidated Revenue Fund to be first recommended by Lieutenant Governor.

H

“the

“the session in which such vote, resolution, address or bill is “proposed.”

Sec. 6, chap.  
5, 31 Vic.,  
repealed.

2. Section six of chapter five of the Acts of the same session, entitled *An Act to repeal Chapter Twenty of the Consolidated Statutes of the late Province of Canada, intituled “An Act respecting the Provincial Duty on Tavern keepers, and to make further provision respecting the same,”* is hereby repealed.

Certain words  
of sec. 2 repeal-  
ed.

3. The following words, forming part of section two of chapter six of the Acts of the same session, are hereby repealed, and the said section two of the said Act shall be read as if the said words had never been inserted therein, nor formed a part thereof, that is to say : “And any wilfully false statement made “by any such witness, on oath or solemn affirmation, shall be a “misdemeanour, punishable in the same manner as wilful and “corrupt perjury.”

Meaning of  
certain words  
in sec. 12,  
chap. 30, 31  
Vic., de-  
clared.

4. The words “Parliamentary elections” in section twelve of chapter thirty of the Acts of the same session, entitled *An Act to amend the Municipal Institutions Act of Upper Canada, Twenty-nine and Thirty Victoria, Chapters Fifty-one and Fifty-two*, shall be held and construed to mean and apply to the election of members of the Legislative Assembly of Ontario only.

Secs. 1 and 3,  
chap. 17, 31  
Vic., re-  
pealed.

5. Sections one and three of chapter seventeen of the Acts of the same session, entitled *An Act to continue for a a limited time the several Acts herein mentioned*, are hereby repealed.

Chap. 38, 31  
Vic., re-  
pealed.

6. Chapter thirty-eight of the Acts of the same session, entitled, *An Act to Incorporate the Clifton Suspension Bridge Company*, is hereby repealed.

Secs. 22 and  
23, chap. 64,  
31 Vic., re-  
pealed.

7. Sections twenty-two and twenty-three of chapter sixty-four of the Acts of the same session, entitled *An Act to Incorporate the Board of Trade of the Town of Guelph*, are hereby repealed.

Sec. 40, chap.  
19, 31 Vic.,  
repealed.

8. Section forty of chapter nineteen of the Acts of the same session, entitled *An Act respecting Gold and Silver Mines*, is hereby repealed,

Secs. 82 and  
83, Reg. of  
Titles Act  
repealed.

9. Sections eighty-two and eighty-three of the *Registration of Titles (Ontario) Act*, are hereby repealed.

Sec. 50, chap.  
29, 31 Vic.,  
repealed.

10. Section fifty of chapter twenty-nine of the Acts of the same session, entitled *An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures*, is hereby repealed.



## CAP. XXVIII.

## An Act respecting the Public Works of Ontario.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. There shall be a Department of Public Works for Ontario, over which the Commissioner of Agriculture and Public Works, for the time being, appointed by commission under the Great Seal, shall preside. Department and Commissioner of public works.

2. The Lieutenant Governor may also appoint an Architect and Engineer of public works, who shall be Chief Officer of the department, a Secretary for the department, and such other officers as may be necessary for the proper conduct of the business of the department. Architect and Engineer, Secretary, and other officers.

3. The Lieutenant Governor may also appoint, from time to time, as many engineers, superintendents, servants and other officers as he may deem necessary for the construction, maintenance, use and repair of public works. Temporary engineers, etc.

4. The Commissioner shall have the management of the department, and it shall be his duty to oversee and direct the other officers and servants of the department; and he shall have such other powers and duties as may be assigned to him by the Lieutenant Governor in Council, and may suspend from duty any officer or servant of the department who refuses or neglects to obey his instructions as such Commissioner. Duties and powers of the Commissioner.

5. It shall be the duty of the Architect and Engineer to prepare maps, plans and estimates for all public works which are about to be constructed, altered or repaired by the department; to report for the information of the Commissioner, on any question relating to the public works which may be submitted to him; to examine and revise the plans, estimates and recommendations of other engineers and officers; to check and verify all certificates and accounts respecting public works and repairs; to conduct all correspondence relating to the above; to transmit to the Secretary all outward correspondence to be copied in the public works' letter book, and all documents that require to be filed or registered; and generally, to advise the department on all architectural and engineering questions affecting the public works. Duties and powers of the Architect and Engineer.

6. It shall be the duty of the Secretary to keep all necessary accounts relating to public works; to file all documents Duties of the Secretary.  
for

for the department, and, in addition to the ordinary indexes, to keep one "Subject Matter General Index" of all the books; to enter all correspondence outward in the proper letter book; to conduct all general correspondence connected with the department, under the instructions of the Commissioner; to prepare all accounts in duplicate for submission to the Honourable The Executive Council; to see that all contracts and documents are properly drawn out and executed; to sign requisitions for office supplies, prepare pay lists, draw the money from the Treasurer's Office, and pay the monthly salaries; to have the charge of the Post Office Franking Stamp, and the Departmental Seal; and generally, to do and perform all such acts and things pertaining to the business of the department, as he may, from time to time, be directed to do and perform by the Commissioner; and a copy of any map, plan or other document in the department, certified by him as a true copy, shall be held to be authentic, and shall be *prima facie* evidence of the same legal effect as the original, in any Court or elsewhere.

What acts only shall bind the department.

7. The Commissioner shall have power to enter into any contract with any person that may be necessary or advisable in carrying out the provisions of this Act, or any of them; but no deeds, contracts, documents or writings shall be deemed to be binding on the department, or shall be held to be the acts of the Commissioner unless signed and sealed with the seal of the department by him.

Actions for enforcing contracts, etc.

8. All actions, suits and other proceedings at law or in equity, for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of any property, real or personal, under the control of the department, shall be instituted in the name of Her Majesty's Attorney General for the Province.

Possession may be required of maps, etc., relating to public works.

9. The Lieutenant Governor may require any person or any Provincial officer, having the possession of any maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, not being private property, and relating to any public work, to deliver the same without delay to the Secretary of the department.

What property, etc., to be under control of department.

10. All land, streams, water-courses, and property, real or personal, heretofore or hereafter acquired for the use of public works; all canals, locks, dams, hydraulic works, harbors, piers and other works for improving the navigation of any water; all slides, dams, piers, booms and other works for facilitating the transmission of timber; all hydraulic powers created by the construction of any public works; all roads and bridges; all public buildings; all railways and rolling stock thereon; all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation; all drains and drainage works, and all property heretofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the Province

ince, and not under the control of the Dominion Government, shall be and remain vested in Her Majesty and under the control of the department.

**11.** The Lieutenant Governor may, from time to time, by proclamation, declare any other property, real or personal, and any works, roads, bridges, harbors, slides or buildings, or other things specified in the next preceding section, and purchased or constructed at the public expense to be public works, subject to the provisions of this Act, and they shall thenceforth be vested in Her Majesty and under the control of the department.

Other property, etc., may be so placed by proclamation.

**12.** Any property, real or personal, when no longer required for the use of any public work may be sold, leased or disposed of, under the authority of the Lieutenant Governor; and the proceeds of all such sales, leases and dispositions shall be accounted for as public money: Provided always, that such property shall be so sold, leased or disposed of by tender or public auction.

Property not required for public works may be sold. Proviso.

**13.** All contracts respecting any public work, or property, real or personal, under the control of the department, heretofore or hereafter entered into by the Commissioner, or by any other person duly authorized to enter into the same, shall enure to the use of Her Majesty, and may be enforced as if they had been entered into with Her Majesty under the authority of this Act.

Existing and future contracts to be valid.

**14.** All public works hereafter constructed or completed at the expense of the Province, shall, unless otherwise provided by law, be under the control of the department, and subject to the provisions of this Act.

Public works to be under control of department.

**15.** The Commissioner shall direct the construction, maintenance and repair of all public works in progress, or constructed or maintained at the expense of the Province, and which are by this Act, or may be hereafter placed, under the control of the department.

Commissioner to have direction of public works.

**16.** The Commissioner may require any account sent in by any person employed by the department, to be attested on oath, which oath, as well as that to be taken by any witness, the Commissioner may administer.

Attesting accounts of contractors, etc.

**17.** The Commissioner may send for, and examine on oath, all such persons as he deems necessary, touching any matter upon which his action is required; and may cause such persons to bring with them such papers, plans, books, documents and things, as it may be necessary to examine with reference to such matter; and may pay such persons a reasonable compensation for their time and disbursements; and such persons shall attend at the summons of the Commissioner after due notice, under the penalty of five pounds in each case.

Power to examine persons on oath. Penalty.



Annual reports of Commissioner.

**18.** The Commissioner shall make and submit to the Lieutenant Governor an annual report on all the works under the control of the department, to be laid before the Legislature within twenty-one days from the commencement of each session, showing the state of each work, and the amounts received and expended in respect thereof, with such further information as may be requisite to enable the Legislature to judge of the working of the department.

Tenders to be invited for works.

Exception.

**19.** It shall be the duty of the Commissioner to invite tenders by public advertisement for the construction and repair of all public works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the department.

Security to be taken from contractors.

Provision when lowest tender is not taken.

**20.** The Commissioner, where any public work is being carried out by contract, and in all other cases, shall take all reasonable care that security be given to and in the name of Her Majesty, for the due performance of the work, within the amount and time specified for its completion; and, in all cases where it seems to the Commissioner not to be expedient to let such work to the lowest bidder, it shall be his duty to report the same, and obtain the authority of the Lieutenant Governor previous to passing by such lowest tender; but no sum of money shall be paid to the contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties therein named, nor until the requisite security has been given.

#### POWER TO TAKE LANDS, ETC.

Power to make surveys, etc.

**21.** The Commissioner may authorize any engineer, agent servant or workman employed by or under him, to enter into and upon any land to whomsoever belonging, and to survey and take levels of the same, and to make such borings, or sink such trial-pits as he deems necessary for any purpose relative to the works under the control of the department.

Certain persons employed by the department as surveyors to have same powers as licensed surveyors.

**22.** The Commissioner may employ any engineer, or any person duly licensed or empowered to act as a surveyor for any Province in Canada, to make any survey, or establish any boundary, and furnish the plans and description of any property acquired or to be acquired by Her Majesty for the use of the Province; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto, or connected therewith, had been performed by a land surveyor duly licensed and sworn in for the Province; and the boundaries of such property may be permanently established by means of proper stone or iron monuments, planted by the engineer or surveyor so employed by the Commissioner, and shall

shall be of the same effect to all intents and purposes as if such boundaries had been drawn, and such monuments planted, by a land surveyor duly licensed and sworn in for the Province, and shall be held to be the true and unalterable boundaries of such property: Provided such boundary lines are so established, Proviso. and such monuments of iron or stone are planted after due notice thereof has been given in writing to the owners of the lands to be thereby affected, and that a written description of such boundaries is approved and signed, in the presence of two witnesses, by such engineer or surveyor on behalf of the Commissioner, and by the other parties concerned, or that in case of the refusal of any party to approve or sign the same, such refusal is recorded in such written description: Provided also, Proviso. that such boundary marks or monuments are planted in the presence of at least one witness, who shall sign the said written description, which shall afterwards be deposited with the Secretary of the department as part of the records of the office.

**23.** The Commissioner may acquire and take possession for Power to acquire and possess lands, etc. and in the name of Her Majesty, of any land or real estate, streams, waters, water-courses, fences and walls, the appropriation of which is in his judgment necessary for the use, construction or maintenance of any public work or building; or for the use, construction or maintenance of hydraulic privileges made or created by, from or at any public work; or for the purpose of draining; or for the enlargement or improvement of any public work; or for obtaining better access thereto; and he may, Parties enabled to contract. for such purpose, contract with all persons, guardians, tutors, curators and trustees whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, married women, or other persons otherwise incapable of contracting, possessed of, or interested in such lands, real property, streams, water and water-courses; and all such contracts, and all conveyances or other instruments made in pursuance of any such contract, shall be valid to all intents and purposes whatever.

**24.** The Commissioner and his agents may enter upon any Power to take materials from uncleared lands. uncleared or wild land, and take therefrom all timber, stones, gravel, sand, clay or other materials which he or they may find necessary for the construction, maintenance and repair of public works, or property, real or personal, under the control of the department; or may lay any materials upon any such land; and the Commissioner may construct, take and use all such temporary roads to and from such timber, stones, gravel, sand, clay or other materials, as may be required by him or his agents for the convenient passing to and from the works during their construction and repair; and may enter upon any land for the purpose of making proper drains to carry off the water from any public work, or for keeping such drains in repair.

Payment of compensation therefor.

**25.** Compensation, to be agreed on between the parties, or appraised and awarded in the manner hereinafter set forth, for such land, real or personal property, streams, water and water-courses, timber, stone or other material, or for any damage thereto, shall be made to the owner or occupier of such land or property, or to the persons suffering such damage aforesaid, and shall be paid within six months after the amount of such compensation has been agreed on, or appraised and awarded.

Notice and tender before taking possession.

**26.** When any such owner or occupier refuses or fails to agree to convey his estate or interest in any land, real property, stream or water-course as aforesaid, the Commissioner may tender the reasonable value in his estimation of the same, with notice that the question will be submitted to arbitration as hereinafter mentioned; and in every case the Commissioner may, three days after such agreement or tender and notice, authorize possession to be taken of such land, real property, stream or water-course so agreed or tendered for.

Notice when the owners do not reside on the land.

**27.** If the owner of such land, real property, stream or water-course, does not reside on or near the property so required, then one month's notice shall be given in the *Ontario Gazette*, and in two newspapers published in or near the district or county in which such property is situate, of the intention of the Commissioner to cause possession to be taken of such land or real property, stream or water-course; and, after ten days from the publication of the last notice, possession may be taken accordingly.

Power to alter the line of any public road.

**28.** The Commissioner may discontinue or alter any part of a public road, where it is found to interfere with the proper line or site of any public work; but before discontinuing or altering such public road he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road or part of a road so discontinued, may, without the authority prescribed in section twelve, be transferred by the Commissioner to, and shall thereafter become the property of, the owner of the land of which it originally formed part, or may be dealt with as prescribed in section twelve.

Fences, etc., removed or ditches made during prosecution of public work to be replaced.

**29.** Whenever, in the prosecution of any public work, it has been necessary to take down or remove any wall, fence or boundary mark of any owner or occupier of land adjoining such public work, or to construct any back-ditches or drains for carrying off the water accumulating behind the banks of any public canal, the Commissioner shall cause to be replaced such wall, fence or boundary mark as soon as the necessity which caused its being taken down or removed has ceased; and after the same has been so replaced, or when such drain or back-ditch is completed, the owner or occupier of such land shall maintain such wall, fence or boundary mark, drains or back-ditches to the same extent as such owner or occupier might be by law required to do, if such wall or fence had never been so taken

Obligations of land owners.



taken down or removed, or such drains or back-ditches had always existed.

#### DRAINAGE OF LANDS.

**30.** The Commissioner shall have power to employ competent engineers and surveyors to make the necessary examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water; such engineers and surveyors to be under the direction of the department, and to report to the Commissioner on the best means of draining or preventing the flooding of such land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of such land.

Power to employ engineers, etc., to examine land for drainage, etc.

**31.** The Commissioner shall submit to the Lieutenant Governor, in the annual report to be laid before the Legislature, a statement of the results of such examinations, surveys and levels, and an estimate of the cost of reclaiming such lands, so as to render them available for cultivation, with his recommendation respecting the same.

Report thereon.

**32.** The Commissioner shall have power to make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works necessary or proper to prevent the flooding of, or to carry off the water from, any such land as aforesaid, and to render the same available for cultivation.

Power to make contracts.

**33.** Where it has been ascertained, on the report of a competent engineer, that there exists, or is being, or has been constructed, across any river, stream or water-course, any mill-dam, embankment or obstruction which does, or which, in the opinion of such engineer, will impede the free discharge of water from any such swamp, bog or flooded land as aforesaid, the Commissioner shall have power to stop the construction thereof, or to cause the same to be removed, or a slide constructed, as in his opinion may be most advisable; and if it be found that the owner of any such mill-dam, embankment or obstruction, or any other person, suffer any damage in consequence of the stoppage of its construction, or of its removal, or of the construction of any slide under the provisions of this section, such owner or person suffering such damage shall receive compensation (if on arbitration, as hereinafter provided, he be considered reasonably entitled to any,) for such damage, to be agreed upon, or appraised and awarded in manner hereinafter provided, due regard being paid to the previous right or wrongful action of the owner in constructing such mill-dam or embankment; and such compensation shall be paid within six months after the same has been agreed on or awarded.

Power to remove obstructions on report of engineer.

Owners, etc., to receive compensation.

**34.** When any such slide as aforesaid has been constructed in

Slides to be in

under control  
of depart-  
ment, etc.

in any mill-dam or embankment, such slide shall be under the control of the department; and the Commissioner, his engineers and agents, shall have free access to the same at all reasonable times, and for all reasonable purposes, including the regulating the discharge of water over, and the repairing of the same.

Power to ap-  
point over-  
seers of drain-  
age works.

**35.** When the works for the drainage or saving from flood-  
ing of any land have been reported complete, the Commissioner shall, if necessary, appoint a competent overseer or overseers to take charge of the same, whose duty it shall be to report, from time to time, and as occasion may require, on the condition of the same, and to state what repairs are required to keep them in good order.

Power to per-  
mit construc-  
tion of lateral  
drains by pri-  
vate parties.

**36.** The Commissioner shall have power to grant permission to any person to construct, or cause to be constructed, at his own expense, lateral drains into any main drains or water-courses constructed or improved under this Act; and such permis-  
sion shall be in writing, signed and sealed, as hereinbefore directed in regard to contracts, and shall set forth the conditions and pay-  
ments on which the same is granted.

Provision as to  
lateral drains  
constructed  
without per-  
mission.

**37.** If any person construct, or cause to be constructed, any such lateral drain as aforesaid, from which water may be discharged into any such main drain or water-course constructed or improved as aforesaid, without such written permission first obtained, such person shall, on due notice, given in writing, signed by the Commissioner, restore such lateral and main drain and water-course to their former condition; and should any such person, upon receipt of such notice, refuse or neglect to restore such lateral and main drain and water-course to their former condition within a reasonable time thereafter, such person, or the clerk, secretary or like officer, or the head officer of any body corporate, or all of them, may be summoned for trespass before a Justice of the Peace, and dealt with as provided by the statute chapter one hundred and five of the Consolidated Statutes of Upper Canada, in respect to trespasses therein mentioned; and the delivery of any notice to the clerk, secretary or like officer, or the head officer of any body corporate, at the office or place of business of such body corporate, shall be due service of such notice upon such body corporate within the meaning of this or any other section of this Act.

Effect of  
refusal to  
remove.

What deemed  
to be due no-  
tice to a cor-  
poration.

Cases in which  
commissioner  
may permit  
use of main  
drain, etc.

**38.** Should any person have or acquire land in the vicinity of any main drain or water-course constructed or improved as aforesaid, such person shall have the privilege of using such main drain or water-course, under such conditions and payments as may be considered fair and reasonable by the Commissioner, to whom application in writing must be made, and by whom permission must first be given as hereinbefore provided.

**39.** The Commissioner shall provide and deposit in the Registry Office of the county wherein any drainage works have been constructed, a fair and correct plan or map of such drainage works on a scale of not less than one inch to every four chains or two hundred and sixty-four feet, and shall lay down thereon all drains, slides, dams, embankments or other works which have been constructed, together with such further information as will show the drainage works, and all matters appertaining to the same; and every copy of such plan or map obtained from such Registry Office, and certified as correct by the Registrar or Deputy Registrar of such county, shall be taken as evidence of the contents of the original plan or map in all Courts in Ontario.

Provision for  
registration of  
plans, etc.

**40.** Nothing herein contained shall give authority to the Commissioner to cause expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service may demand.

Expenditure  
to be sanc-  
tioned by  
Legislature,  
etc.

#### OFFICIAL ARBITRATORS.

**41.** The Lieutenant Governor may, from time to time, constitute a Board of Arbitration, and appoint any number of persons, not exceeding three, who shall be official arbitrators for Ontario, and who shall arbitrate on, appraise, determine and award the sum which shall be paid to any person in respect of any claim made by such person under this Act, and with whom the Commissioner has not agreed and cannot agree; and every such arbitrator shall receive such remuneration as shall be, from time to time, fixed by the Lieutenant Governor.

How appoint-  
ed and for  
what purpose,  
etc.

**42.** The Arbitrators shall take, before the Commissioner or one of Her Majesty's Justices of the Peace for Ontario, the following oath: "I, A. B., do swear that I will well and truly hear, try and examine into, such claims as may be submitted to me for compensation for real or personal property taken, or alleged direct or consequent damage to such property, arising from the construction, or connected with the execution, of any public work undertaken at the expense of the Province of Ontario, or arising out of, or connected with, the execution or on account of, deductions made for the non-execution or non-fulfilment of any contract for the execution of any such public work; that I will give a true judgment and just award thereon, to the best of my knowledge and ability; and that I will take into due consideration the benefits derived and to be derived by the claimant through the construction of such public work, as well as the injury done thereby; so help me God."

Their oath of  
office.

**43.** The Lieutenant Governor may appoint proper persons to act as clerks to the said arbitrators, and may fix the amount of remuneration to be allowed any such clerk.

Clerks to  
arbitrators.

**44.** Whenever any arbitrator shall have concluded any such arbitration

Arbitrators  
arbitration



to transmit  
award, etc.,  
to Secretary.

arbitration by the publication of his award thereon, he shall forthwith cause to be transmitted to the Secretary of the department, such award, together with all depositions, documents, maps, plans, books, accounts, contracts and writings, not being private property, taken by or submitted to such arbitrator, in the course of such arbitration; and the Secretary shall file the same as public records of the department.

#### WHAT CASES MAY BE REFERRED TO ARBITRATION.

How and in  
what cases  
claims are to  
be made.

**45.** If any person has any claim for real or personal property taken, or for alleged direct or consequent damage to such property, arising from the construction, or connected with the execution of any public work undertaken at the expense of the Province, or any claim arising out of or connected with the execution, or fulfilment, or on account of deductions made for the non-execution or non-fulfilment of any contract for the execution of any such public work, made and entered into with the Commissioner, either in the name of Her Majesty, or in any other manner whatsoever, such person may give notice in writing of such claim to the Commissioner, stating the particulars thereof, and how the same has arisen; and thereupon the Commissioner may, at any time within thirty days after such notice, tender what he considers a just satisfaction for the same, with notice that unless the sum so tendered is accepted in ten days after such tender, the said claim will be submitted to arbitration.

Security for  
costs by  
claimant.

**46.** Before any claim under this Act shall be arbitrated upon, the claimant shall give security to the satisfaction of the arbitrators, or any one of them, for the payment of the costs and expenses incurred by the arbitration, in the event of the said claimant being awarded to pay such costs.

Cases in which  
no arbitration  
allowed.

**47.** No arbitration shall be allowed in any case where, by the terms of the contract therein, it is provided that the determination of any matters of difference arising out of or connected with the same, shall be decided by the Commissioner or the Architect and Engineer, or other officer of the department.

Limitation of  
time within  
which claims  
must be made.

**48.** No claim of any kind for compensation in respect of any contract made, or for any loss or damage occasioned by anything done, under this Act, by, or under the authority of, the department or the Commissioner, shall be submitted to or entertained by any arbitrator, unless such claim and the particulars thereof have been filed with the Secretary of the department within six months next after the loss or injury complained of, or after the date of the final estimate made under such contract.

#### POWERS OF ARBITRATORS AND PROCEEDINGS BY OR BEFORE THEM.

Power to

**49.** The arbitrators may, by summons or order in writing, signed

signed by any one of them, to be served upon, or left at the last usual place of residence of the person to whom it is addressed, command the attendance, from any part of the Province, of any witness, or the production of any documents required by any of the parties, and may swear the said witness to testify truly respecting the matters on which he is to be interrogated; and the disobedience of such summons or order shall subject the person disobeying to a penalty of not less than five dollars, nor more than twenty-five dollars, to be recovered before any Justice of the Peace, and levied under the warrant of such Justice, by distress and sale of the goods and chattels of the offender, unless such person establishes reasonable cause for such disobedience.

summon witnesses., etc.

Penalty.

**50.** But no person shall be compelled to give any evidence, or to produce any document, which he would not be compelled to give or produce at a trial in any Superior Court of the Province; or to attend as a witness more than three consecutive days; and every witness shall be allowed, in addition to his reasonable travelling expenses, a sum not exceeding five shillings per day, at the discretion of the arbitrators, such remuneration to be paid by the party requiring his attendance.

What evidence, etc., disallowed.

**51.** The arbitrators shall consider the advantage as well as the disadvantage of any public work as respects the real or personal property of any person through which the same passes, or to which it is contiguous, or as regards any claim for compensation for damage caused thereby; and the arbitrators shall, in estimating and awarding the value of any property, real or personal, taken for any public work, or the amount of damages to be paid to any person, take into consideration the advantages accrued, or likely to accrue, to such person or his estate, as well as the damage occasioned by reason of such work.

Arbitrators to consider advantages, etc., of work to claimant.

**52.** The arbitrators in estimating and awarding the amount to be paid to any claimant for any property, real or personal, taken by the Commissioner under this Act, or for any injury in respect thereof, shall assess the value thereof as if made at the time when such property was so taken or injured, and not as at the time of making their award.

How amount to be paid claimant estimated, etc.

**53.** In awarding upon any claim arising out of any contract in writing, the arbitrators shall decide in accordance with the stipulations in such contract, and shall not award compensation to any claimant on the ground that he expended a larger sum of money in performance of his contract, than the amount stipulated therein; nor shall they award interest on any sum of money which they consider to be due to such claimant, in the absence of any contract in writing, stipulating payment of such interest; and any clause in any such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or any neglect to complete any public work,

How awards upon contracts in writing,

and penalties in such contracts construed.

or

or to fulfil any covenant or promise in such contract, shall not be construed as comminatory, but as importing an assessment, by mutual consent, of the damages caused by such non-performance or neglect.

Evidence to be taken in writing.

**54.** In the investigation of any claim, the arbitrators shall cause all legal evidence, offered on either side, to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during such investigation; but they may, with the consent in writing of the Commissioner and of the opposite party, take the testimony of the witnesses adduced on either side, orally, and in such case need not reduce it to writing.

Exception.

By whom the costs to be paid, etc.

**55.** If the sum awarded in any case is greater than the sum tendered, the Commissioner shall pay the costs of the arbitration; but if less, the costs shall be paid by the person\* who refused the tender; and such costs shall in other cases, where the award is in favour of the claimant, be paid by the Commissioner, in addition to the sum awarded; and where the award is in favour of the Commissioner, shall be paid by the claimant, and shall in all cases be taxed by the proper officer of the Court of Queen's Bench or Common Pleas for Ontario.

Chap. 28 Con. Stat. Can., 21 Vic., chap. 4, and 29 Vic., chap. 7 repealed.

**56.** The following Acts are hereby repealed so far as they relate to Ontario: chapter twenty-eight of the Consolidated Statutes of the late Province of Canada, entitled *An Act respecting Public Works*, and an Act passed by the Parliament of the late Province of Canada in the twenty-fourth year of Her Majesty's reign, chapter four, entitled *An Act to amend the Twenty-eighth Chapter of the Consolidated Statutes of Canada, intituled, "An Act respecting the Public Works in so far as respects the Powers of Official Arbitrators;"* and an Act passed by the Parliament of the late Province of Canada in the twenty-ninth year of Her Majesty's reign chapter seven, entitled *"An Act to Extend and Amend the Acts respecting Public Works to and with respect to Works connected with the Defence of the Province."*

## CAP. XXIX.

An Act respecting the Security to be given by Officers of Ontario.

[Assented to 23rd January, 1869.]

**H**ER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—



1. Every person heretofore appointed to any civil office or employment, or commission in any public department of the Government of this Province, or of the Government of the late Province of Canada, held or exercised within and applicable exclusively to this Province, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money for or under the Government of this Province, and who, by reason thereof, is required to give security, with surety or sureties, or otherwise, shall, within six months from and after the passing of this Act, give and enter into a bond or bonds, or other security or securities, in such sum, and with such sufficient surety or sureties, as may be approved of by the Lieutenant Governor, or by the principal officer or person in the office or department to which he has been appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public money intrusted to him or placed under his control.

Persons holding office to give security by bond.

2. Every person appointed after the passing of this Act, to any civil office or employment, or commission in any public department of the Government of this Province, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of this Province, and who by reason thereof is required to give security, with surety or sureties, or otherwise, shall, within one month after notice of such appointment, if he is then in Canada, or within three months, if he is then absent from Canada, (unless he sooner arrives in Canada, and then within one month after such arrival,) give and enter into a bond or bonds, or other security or securities, in such sum, and with such sufficient surety or sureties, as may be approved of by the Lieutenant Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control.

Persons hereafter appointed.

3. Every person who, by reason of his appointment to any civil office or employment, or commission in any public department, or of public trust, as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of any public moneys, as aforesaid, gives or enters into any bond or other security, for the due performance of the trust reposed in him, or for the due accounting for of public money intrusted to him, and every surety in any such bond, shall make the affidavit in the form A, hereto annexed, before a Justice of the Peace, and shall cause every such bond or security to be proved, as to the due execution thereof, by an affidavit of the attesting witness in the form B annexed to this Act, made before a Justice of the Peace, and shall cause every such bond or security, with the said affidavits thereto annexed, to be recorded at

Bonds, how and where to be recorded and deposited.

at full length in the office of the Secretary and Registrar of this Province, in manner hereinafter mentioned, and shall forthwith, after such registration, deposit the original bond or security, and the said affidavits thereto annexed, in the office of the Treasurer of the Province.

Time within which it is to be done.

2. Every such bond or security, and the said affidavits thereto annexed, shall be recorded and deposited, as aforesaid, within one month after being entered into or given, if the person on whose behalf it is entered into or given resides or is in Canada; and if he is absent from Canada, then within three months after being entered into or given, unless such person arrives sooner in Canada, and then within one month after such arrival.

Entry of bond and certificate thereof.

4. The Secretary and Registrar of the Province shall make an entry, and shall, if required, give a certificate in writing under his hand of every such bond or security brought to him to be registered as aforesaid, and therein shall mention the day on which such bond or security is so registered, expressing also in what book, page or number the same is recorded.

Separate book to be kept for the purpose.

2. For the purpose of so registering bonds or securities under this Act, the said Secretary and Treasurer shall provide a separate register book, every page of which, and every bond or security recorded therein, shall be numbered; and the day of the month and year when every such bond or security is registered, shall be entered in the margin of the said register book, and in the margin of the bond or security: Provided always, that no bond or security given by any person under this Act to Her Majesty, her Heirs or Successors, shall constitute any other or greater lien or claim upon the lands or tenements, goods or chattels of such person, than if such bond had been given to one of Her Majesty's subjects.

Proviso.

Alphabetical lists of names of principals, etc.

3. The said Secretary and Registrar shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in such bonds or securities, with reference to the book, page or number where the bonds or securities containing such names are to be found, and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands.

Commission may be declared avoided for non-compliance.

5. If any person who, by reason of his appointment to or holding any such civil office or employment, or commission in any public department, or of public trust as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of any public money as aforesaid, is required or bound to give any such security, or to register and deposit any such bond or security as aforesaid, neglects to give such security, or to cause such bond or security to be duly registered

registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security ought to have been given; and such bond or security, registered and deposited, as aforesaid, and his appointment or commission shall be void from and after the time when the Lieutenant Governor declares the same to be avoided under this Act; but such avoidance shall not annul or make void any act or order or other matter or thing done by such person during the time he actually held such appointment, office, employment or commission.

Avoidance  
not to annul  
acts done.

2. No such forfeiture shall take place by reason of any such bond or security not being registered or deposited, where the proper sureties have been given and the proper bond made out, and when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance; but in every such case a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is) as is required by this Act for the registry thereof if such loss had not occurred.

No forfeiture  
if delay caused  
by loss of bond.

6. Every such person as aforesaid, who has given any bond or other security, with surety or sureties for the due execution of the trust reposed in him, or for duly accounting for public moneys coming to his hands, shall give notice in writing to the Secretary and Registrar of this Province, or to the principal officer or person of the department to which he belongs, of the death, bankruptcy, insolvency, or residence out of this Province, of any surety or person bound for or with him in any such security.

Notice to be  
given of  
death, etc.,  
of surety.

2. Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in this Province, or within three months, if he be out of Canada, unless he sooner arrives in Canada, and then within one month after such arrival; and any person who neglects to give such notice within such period as aforesaid, shall forfeit, to the use of Her Majesty, one-fourth part of the sum for which the surety so dead, or bankrupt or insolvent, or resident out of this Province, became security, to be recovered in any Court of competent jurisdiction, by action of debt or information at the suit of the Crown.

Time for  
giving notice.

Penalty.

3. Every such person who, upon the death, bankruptcy, insolvency, or residence out of this Province of any surety, neglects to give the security of another surety, to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of this Province, was approved, within such period from his having given notice of the death, bankruptcy

Neglect to  
provide new  
surety punish-  
able by forfei-  
ture of office.



ruptcy or insolvency, or residence out of this Province, of the former surety, as is by this Act limited for giving, registering and depositing the original security, or neglects to register and deposit the bond or security of such new surety, within such period from his having given the security of such new surety, as is by this Act limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person may then be), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant Governor declares the same to be avoided, in like manner, and under and subject to such provisions, as aforesaid.

How sureties  
may relieve  
themselves  
from further  
responsibility.

7. When any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary and Registrar of this Province; and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices; and the principal shall, within that period, give the security of another surety, and register and deposit the bond of such new surety, or, in default of so doing, shall be liable to forfeit and be deprived of the appointment, office, employment or commission in respect whereof such new security ought to have been given, and such new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant Governor declares the same to be avoided, in like manner, and under and subject to such provisions, as aforesaid.

Governor may  
remit penalty  
in certain  
cases,

8. The Lieutenant Governor in Council may remit the forfeiture or penalty in any case in which the failure to give security, or to register and deposit any bond or security under this Act, has not arisen from any wilful neglect of the person bound to give, register or deposit the same.

or may extend  
time for giving  
security, etc.

2. If it appears to the Lieutenant Governor that the period hereinbefore limited for giving the security of a new surety as aforesaid is, in consequence of particular accidents, casualties or circumstances insufficient, or that by reason of the distance or loss of letters, or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given, the Lieutenant Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper.

3. But such extended period shall in no case exceed two months beyond the period allowed by this Act; and the precise period proposed to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered, or indorsed on the back of the original bond or other security itself; and the person required to give the security of such new surety shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act, if he gives it within the extended period so allowed as aforesaid.

but not more than two months, and an entry thereof must be made.

9. The Lieutenant Governor may approve of the security given, or the affidavit of qualification filed by any public officer of this Province, although the same has been given or filed after the time limited by this Act; and, in such case, the office or commission of such public officer shall be deemed not to have been avoided by such default, but to have remained and to remain in full force and effect.

Security may be approved, although given after time limited.

10. No act of any public officer of this Province whose security has been given, or registered, or deposited, or whose affidavit of qualification has been filed after the time limited by this Act, shall, by such default, be void or voidable.

Acts not void by delay in giving security, etc.

11. Where the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be.

Securities executed at different times, within what time to be registered.

12. No neglect, omission or irregularity, in giving or receiving the bonds or other securities, or in registering the same, within the periods or in the manner prescribed by this Act, shall vacate or make void any such bond or security, or discharge any surety from the obligations thereof.

Neglect, etc., not to vacate bond or discharge surety.

13. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited from any forfeiture or penalty under any of the provisions of this Act.

Proper officer to register and deposit bonds, although time expired, but not to exempt from penalty.

14. Nothing in any of the preceding sections of this Act shall apply to or affect any officer of any department, with respect to which special provision is made by law for the giving

Not to affect cases where special provision made.

ing of security by its officers and the exacting of security from them, unless such special provision does not extend or apply to such officer.

Statement of  
bonds to be  
laid before  
Parliament.

**15.** The Secretary and Registrar of this Province shall cause to be prepared, for the information of the Legislative Assembly of this Province, within fifteen days after the opening of every session thereof, a detailed statement of all bonds or securities registered as aforesaid in his office, and of any changes or entries that have been made in reference to the names and residence of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the said Legislative Assembly.

Governor in  
Council may  
authorize se-  
curity of cer-  
tain com-  
panies to be  
accepted.

**16.** The Lieutenant Governor in Council may, by order in council, direct that whenever any public officer of this Province is required to give security as aforesaid, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control, or for the due fulfillment in any way of his duty, or of any obligation undertaken towards the Crown, the bond or policy of guarantee of the European Assurance Society, mentioned in the Imperial Act twenty-second Victoria, chapter twenty-five, or of any Incorporated or Joint Stock Company, incorporated and empowered for like purposes, named by such order in Council, may be accepted as such security, upon such terms as shall be determined by the Lieutenant Governor in Council.

Securities  
heretofore  
given binding.

**17.** All bonds and securities heretofore given by any public officer and his sureties, or any of them, under any law of the late Province of Canada, shall be held to be and continue valid and binding, notwithstanding the changes effected by *The British North America Act, 1867*; subject nevertheless to the right of the sureties therein named to relieve themselves from liability, in the manner provided for that purpose by this Act, or by the Act under which such bonds or securities were given.

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#### FORM A, referred to in Section 3.

County of \_\_\_\_\_, } I, A. \_\_\_\_\_ B. \_\_\_\_\_, the  
Province of Ontario. } obligor (or one of the sureties) in the  
annexed bond named, make oath and say as follows:—

1. I am seized and possessed to my own use of real (or real and personal) estate, in the Province of Ontario, of the actual value of (the amount for which the party has become liable by the bond) dollars, over and above all charges upon and incumbrances affecting the same.



2. My post office address is as follows: (*insert the name of the post office*).

Sworn before me at \_\_\_\_\_, in the county (or  
united counties) of \_\_\_\_\_, this \_\_\_\_\_ day  
of \_\_\_\_\_ 18 .

C. D.,  
J. P. for the county of \_\_\_\_\_

#### FORM B, referred to in Section 3.

County of \_\_\_\_\_ } I, G. H. ,  
                                  } of the            of  
Province of Ontario. } in the county of ,  
make oath and say as follows:—

I. I am the person whose name is subscribed to the annexed bond as (*or one of*) the attesting witness to the execution thereof, and that the signature set and subscribed thereto as such attesting witness, is of my proper handwriting, and that my name and addition are correctly above set forth.

2. I was present and did see the said bond duly signed and executed by the several parties thereto (*or by A. B. and C. D., two of the parties executing the same, as the case may be*).

3. I am well acquainted with all the said parties (*or with the said A. B. and C. D.*).

Sworn before me at \_\_\_\_\_ in the county (or  
united counties) of \_\_\_\_\_, this \_\_\_\_\_  
day of \_\_\_\_\_, 18 .

E. F.,  
J. P. for the county of \_\_\_\_\_

#### CAP. XXX.

### An Act to provide for the Registration of Births, Marriages and Deaths.

[Assented to 23rd January, 1869.]

**W**HEREAS it is expedient to provide a correct system of Preamble.  
registration of births, marriages and deaths: Therefore,  
Her Majesty, by and with the advice and consent of the Legis-  
lative Assembly of the Province of Ontario, enacts as follows:—

1.

Provincial Secretary to be registrar general.

Registration districts, etc.

Proviso.

Registration divisions, etc.

Appointment of division registrars.

Registrars in districts of Algoma and Nipissing how appointed.

Registrar general to procure necessary books, etc.

District registrar to transmit books, etc., to division registrars.

1. The Provincial Secretary shall be, for the purposes of this Act, the Registrar General of the Province.

2. Each county, or union of counties for municipal purposes, and each city or town withdrawn from the jurisdiction of the county or union of counties in which it is situate, shall be registration districts, and the Clerks of the Peace of such county or union of counties shall be, for the purposes of this Act, District Registrars: Provided always, that in cases of cities and towns withdrawn from the jurisdiction of the county or union of counties, the Clerk of the Peace of the county or union of counties in which such city or town is situate, shall be the District Registrar for the same.

3. Each township, or union of townships, incorporated village, and town and every ward in cities, shall be registration divisions, and the Clerks of such municipalities shall be, for the purposes of this Act, Division Registrars.

2. The municipal council of each city shall, at its third regular meeting, in the year one thousand eight hundred and sixty-nine, appoint a competent person in each ward to act as Division Registrar for such ward.

4. The Lieutenant Governor in Council shall appoint such District and Division Registrars in the existing Districts of Algoma and Nipissing, and also in any territorial districts hereafter formed, and, by order in Council, make such rules and regulations as may be necessary to secure a correct record of the births, marriages and deaths occurring therein, until municipal organizations are formed.

5. The Registrar General shall procure the necessary books and forms for the District and Division Registrars, the same to be prepared according to schedules A, B and C, appended to this Act, with such additional columns as may, from time to time, be added thereto by the Lieutenant Governor in Council, in order to the procurement of correct statistical information; and he shall distribute the same to the several District Registrars; and the costs and expenses of such books and forms, and the expenses attendant upon the distribution thereof, shall be paid out of the Consolidated Revenue Fund of the Province.

6. The District Registrars shall, immediately on receipt of the books or forms from the Registrar General, transmit the same to the several Division Registrars in their districts, and shall also receive the returns, hereinafter provided for in this Act, from the Division Registrars in their districts, and transmit the same forthwith to the Registrar General; and the expenses attendant thereupon (to be fixed by order in council,) shall be paid out of the Consolidated Revenue Fund of the Province.

7. The Division Registrars shall receive the books or forms sent by the District Registrars and keep the same in a place of safety; make all entries therein as hereinafter required in this Act; and shall, on or before the fifteenth day of January, in each and every year, make returns to the District Registrar of the original books or forms containing the original entries, certified under his hand, of the births, marriages and deaths of the preceding year; and such District Registrar shall, on or before the first day of February in each year, transmit such returns to the Registrar General.

Duties of division registrars.

8. The father of any child born in this Province, or, in case of his death or absence, the mother, or, in case of the death or inability of both parents, any person standing in the place of the parents, or, if none such there be, then the occupier of the house or tenement in which to his knowledge such child was born, or the nurse present at the birth, shall, within thirty days from the date of such birth, give notice thereof to the Division Registrar in which such child was born, giving as far as possible the particulars required in schedule A, with such additional information as may be required by the Registrar General, from time to time, which particulars shall be entered by the Division Registrar in his book; and for each such birth the person so reporting the same, shall, at the time, pay to the Division Registrar the sum of ten cents.

The father or other persons to report births to division registrars.

9. In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father, unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children the Division Registrar shall write the word "Illegitimate" in the column set apart for the name of the child, and immediately under the name, if any.

Registration of births of illegitimate children.

10. Every registration of a birth shall be made within the time aforesaid; but nothing herein contained shall prevent the subsequent registration of such birth within the period of one year.

Time when registration to be made.

11. The occupier of the house and tenement in which a death shall take place, or, if the occupier be the person who shall have died, then some one of the persons residing in the house in which the death took place, or, if such death shall not have taken place within a house, then any person present at the death, or having any knowledge of the circumstances attending the same, or the coroner who may have attended any inquest held on such person, shall, before the interment of the body, or, within ten days after, supply to the Division Registrar of the division in which such death took place, according to his or her knowledge or belief, all the particulars required to be registered touching such death by the form provided by this Act; and for each such death

Report of deaths to division registrars and registration of same.



death the person so reporting the same shall, at the time, pay to the Division Registrar the sum of ten cents.

Clergymen authorized to celebrate marriages to report to division registrars.

**12.** Every clergyman, minister, or other person authorized by law to celebrate marriages, shall be required to report each and every marriage he celebrates to the Registrar of the division within which such marriage is celebrated, within ninety days from the date of such marriage, with the particulars required by schedule B, appended to this Act; and, for every such marriage reported, he shall pay to the Registrar the sum of ten cents, which sum he shall be entitled to collect from the parties married in addition to the sum allowed by the Act chapter seventy-two of the Consolidated Statutes of Upper Canada, entitled *An Act respecting Marriages*.

No other reports except those named by this Act.

**13.** Notwithstanding any former enactments, no clergyman, minister or other person ordained or appointed over any church or congregation, and authorized to solemnize marriage, shall, from and after this Act comes into force, except as provided in section twenty-four, be required to make any other returns or reports than what is required by this Act, respecting births, baptisms, marriages or deaths.

Physicians to report births and deaths.

**14.** Every physician or medical practitioner shall be required to report the death of any person whom he may have attended professionally, to the Registrar of the division wherein such death may occur, within ten days of the date of such death, stating the nature of the disease or other cause of death, and other particulars required by schedule C, so far as he can do so; and he shall also report every birth at which he attended professionally, within ten days after the date of such birth, giving, so far as practicable, the details required by schedule A; which report by such physician or medical practitioner shall be entered by the Division Registrar, unless such birth or death has been previously reported and entered, in which case the entry shall be supplemental in such particulars as to the cause of death, duration of illness, or other information required by the Registrar in the said schedule, and wherein such physician's report differs from the previous entry.

Errors in registration may be corrected within one year.

**15.** If within one year after the entry of any birth, marriage or death, it be discovered that any error has been made in such entry, then upon the same being reported to the proper Division Registrar within the time aforesaid, it shall be his duty to enquire into the same, and, if satisfied that an error has been committed in any such entry, it shall be lawful for him to correct the erroneous entry, according to the truth of the case, by entry in the margin without any alteration in the original entry; and, having made such correction, he shall, if the original entry of the birth, marriage or death so corrected has been returned as hereinbefore provided, report the same, according to the facts of the case, to the District Registrar, who shall immediately transmit

transmit such report to the Registrar General, whose duty it shall be to correct such erroneous entry in the margin of the book or form containing the original entry.

**16.** If any District or Division Registrar refuses or neglects to perform the duties required of him by this Act, as such District or Division Registrar, he shall, for every such offence, upon conviction thereof, before any Justice of the Peace, forfeit the sum of fifty dollars to Her Majesty; and it shall be the duty of the County Attorney in each county to prosecute such officials for any refusal or neglect to perform the duties required by this Act when notified by the Registrar General, District Registrar or other parties.

Penalty for district or division registrar refusing to act.

**17.** The Registrar General shall cause to be transcribed in separate books all the particulars communicated to him by the several Division Registrars through the District Registrars of the births, marriages and deaths in each division; and the original returns shall be arranged, indexed, bound and kept in the office of the Registrar General.

Particulars furnished registrar general how entered.

**18.** All persons shall be entitled, at all reasonable hours, to search these records, and to require and receive extracts duly certified by the Registrar General, which extracts shall be evidence of the entry certified and *prima facie* evidence in any Court of law or equity in this Province of the facts therein stated; and, for every such certificate, the person so requiring the same shall pay a fee of fifty cents.

All parties entitled to search records in registrar general's office.

**19.** Any person who shall knowingly or wilfully make or cause to be made any false statement touching any of the particulars required to be reported and entered under this Act, shall, upon conviction thereof before any Justice of the Peace, forfeit the sum of forty dollars.

Penalty for persons giving false information.

**20.** The Registrar General shall, on or before the first day of June in each year, collate, publish and distribute, for the use of Parliament, a full report of the births, marriages and deaths of the preceding year, giving such details, statistics and information as the Lieutenant Governor in Council may think necessary.

Registrar general to make annual report.

**21.** The Lieutenant Governor in Council may, from time to time, make such further rules, orders and regulations as may be required for the purpose of effectually obtaining the information required by this Act.

Governor in Council may make rules.

**22.** If any householder, head of a family, clergyman, physician or other person or persons required by this Act to report births, marriages and deaths refuses or wilfully neglects to do so within the time named, such persons shall, for each and every offence, forfeit and pay a sum not less than one dollar, nor more than twenty dollars and costs, in the discretion of the presiding Justice

Penalty for parties neglecting or refusing to report.

Justice before whom the case shall be heard ; and it shall be the duty of the Division Registrar to prosecute all such persons so neglecting or refusing to make the required reports.

Conviction  
and levy.

**23.** Any Justice of the Peace having jurisdiction within the locality where any offence against this Act has been committed, may hear and determine such complaint, and shall have power, in case the penalty and costs awarded by him be not forthwith paid upon conviction, to levy the same by distress and sale of the goods and chattels of the offender, by warrant under his hand and seal; and, except as provided in section fifteen, the penalty when recovered shall be paid over by such Justice, one-half to the person complaining and one-half to Her Majesty; and, in default of payment or sufficient distress, the offender may, by warrant signed and sealed as aforesaid, be imprisoned in the common gaol for a period not less than one day nor more than twenty days, at the discretion of such Justice, unless such penalty, costs and charges of commitment be sooner paid.

In default of  
distress im-  
prisonment.

Act to come  
into force on  
July 1st, 1869.

**24.** This Act shall come into force on the first day of July, one thousand eight hundred and sixty-nine, and all records of marriages, births and deaths required to be kept by clergymen and others under the present law, shall be kept as heretofore up to the said first day of July; and the returns thereof shall be made immediately thereafter to such officers or persons as they were made to before this Act came into force.



SCHEDULE A—BIRTHS.

Registration District of

Division of

No.	When born.	Name.	Sex.	Name and surname of father.	Name and maiden surname of mother.	Rank or profession of father.	Signature, description and residence of informant.	When registered.	Name of accoucheur.	Signature of Registrar.	Remarks.

I hereby certify the foregoing to be the true and correct entries of all births returned to me for the year ending the 31st of December, 18  
day of A.D. 18

Division Registrar of

SCHEDULE B.—MARRIAGES.

Division of

Registration District of

No.	BRIDEGROOM.						BRIDE.						Remarks.									
	His name.	Age.	Residence when married.	Place of birth.	Condition.	Rank or profession.	Name of parents.	Her name.	Age.	Residence when married.	Place of birth.	Spinster or widow.	Name of parents.	Name of witnesses.	Residence of witnesses.	Date of marriage.	Religious denomination of bridegroom.	Religious denomination of bride.	By whom married.	By license.	By banns.	Remarks.

SCHEDULE

I hereby certify the foregoing to be the true and correct entries of all marriages returned to me for the year ending the 31st December, 18  
A. D. 18  
day of

Division Registrar of





## CAP. XXXI.

## An Act to Amend the Act imposing a Tax on Dogs and for the Protection of Sheep.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS it is expedient to amend the Act twenty-nine and thirty Victoria, chapter fifty-five, entitled *An Act to Amend and Consolidate the Acts to impose a Tax on Dogs, and to provide for the better Protection of Sheep in Upper Canada*: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

29 and 30 Vic.  
repealed.

1. The Act passed in the twenty-ninth and thirtieth years of Her Majesty's reign, chapter fifty-five, entitled, *An Act to Amend and Consolidate the Acts to impose a Tax on Dogs, and to provide for the better Protection of Sheep in Upper Canada*, is hereby repealed.

Annual tax  
on dogs.

Proviso.

2. There shall be levied annually, in every municipality in Ontario, upon the owner of each dog therein, an annual tax of one dollar for each dog, and two dollars for each bitch: Provided, however, that in case the council of any county or union of counties, may deem it advisable to dispense with the levy of the said tax, it may be lawful for such council to declare by by-law that the said tax shall not be levied in any of the municipalities within its jurisdiction; and, immediately upon the said by-law having been passed, shall cause its Clerk to transmit a copy of the same to the assessor or assessors of every municipality so within its jurisdiction.

Duty of as-  
sessors herein.

3. The assessor or assessors of every municipality within which this Act shall not have been dispensed with, as provided in the foregoing section, shall, at the time of making their annual assessment, enter on their roll opposite the name of every person assessed, and also opposite the name of every resident inhabitant not otherwise assessed, being the owner or keeper of any dog or dogs, the number by him or her owned or kept, in a column prepared for the purpose.

Duty of  
owners of  
dogs.

Penalty.

4. The owner or keeper of any dog shall, when required by the assessor or assessors, deliver to him or them in writing, the number of dogs owned or kept, whether one or more; and for every neglect or refusal to do so, and for every false statement made in respect thereof, shall incur a penalty of five dollars, to be recovered before any Justice of the Peace for the municipality, with costs.

Tax

5. The collector's roll shall contain the name of every person

son entered on the assessment roll as the owner or keeper of any dog or dogs, with the tax hereby imposed, in a separate column; and the collector shall proceed to collect the same, and at the same time and with the like authority, and make returns to the Treasurer of the municipality, in the same manner, and subject to the same liability for paying over the same in all respects to the Treasurer, as in the case of other taxes levied in the municipality.

6. The money so collected and paid to the Clerk or Treasurer of any municipality, shall constitute a fund for satisfying such damages as may arise in any year from dogs killing or injuring sheep or lambs in such municipality; and the residue, if any, shall form part of the assets of the municipality for the general purposes thereof; but the fund shall be supplemented, when necessary, in any year to pay charges on the same, to the extent of the amount which may have been applied to the general purposes of the municipality.

Tax to form fund for damages, etc.

7. The owner of any sheep or lamb killed or injured by any dog, shall be entitled to recover the damage occasioned thereby from the owner or keeper of such dog, by summary proceedings before a Justice of the Peace, on information or complaint before such Justice, who is hereby authorized to hear and determine such complaint, and proceed thereon in the manner provided by chapter one hundred and three of the Consolidated Statutes of Canada, in respect to proceedings therein mentioned; and such aggrieved party shall be entitled so to recover, whether the owner or keeper of such dog knew or did not know that it was vicious or accustomed to worry sheep.

Extent of liability of owner or keeper of dog.

8. The owner of any sheep or lamb, killed or injured by any dog, the owner or keeper of which is not known, may, within three months, apply to the council of the municipality in which such sheep or lamb was so killed or injured, for compensation for the injury; and if such council (any member of which shall be competent to administer an oath or oaths in examining parties in the premises,) shall be satisfied that the aggrieved party has made diligent search and enquiry to ascertain the owner or keeper of such dog, and that such owner or keeper cannot be found, they shall award to the aggrieved party for compensation a sum not exceeding two-thirds of the amount of the damage sustained by him; and the Treasurer of such municipality shall pay over to him the amount so awarded.

Provision for cases in which owner of dog not known.

9. In case the owner of any sheep or lamb so killed or injured, shall proceed against the owner or keeper of the dog that committed the injury, before a Justice of the Peace, as provided by this Act, and shall be unable, on the conviction of the offender, to levy the amount ordered to be paid, for want of sufficient distress to levy the same, then the council of the municipality

Provision for cases where there is a conviction, but distress insufficient.

municipality in which the offender resided at the time of the injury, shall order their Treasurer to pay to the aggrieved party the amount ordered to be paid by the Justice under such conviction, saving and excepting the costs of the proceedings before such Justice and before the council.

After compensation paid by municipality, claims to belong to them.

Proviso.

Dogs seen worrying.

Dogs known to worry sheep to be killed by owner.

Penalty.

Proviso.

Proviso.

Proceedings where collector has failed to collect taxes from parties assessed for dogs.

Penalty.

Penalty.

**10.** After the owner of such sheep or lamb shall have received from the municipality any money under either of the preceding sections, his claim shall thenceforth belong to such municipality; and they may enforce the same against the offending party for their own benefit, by any means or form of proceeding that the aggrieved party was entitled to take for that purpose: Provided always, that in case such municipality shall recover from the offender more than they had paid to the aggrieved party, besides their costs, they shall pay over the excess to such aggrieved party for his own use.

**11.** Any person may kill any dog which he may see worrying or wounding any sheep or lamb.

**12.** The owner or keeper of any dog, to whom notice shall be given of any injury done by his dog or dogs to any sheep or lamb, or of his dog or dogs having chased or worried any sheep or lamb, shall, within forty-eight hours after such notice, cause such dog or dogs to be killed; and for every neglect so to do, he shall forfeit a sum of two dollars and fifty cents for every such dog, and a further sum of one dollar and twenty-five cents for each such dog for every forty-eight hours thereafter, until the same be killed: Provided that it shall be proved to the satisfaction of the Justice of the Peace before whom such suit shall be brought for the recovery of such penalties, that such dog or dogs has or have worried or otherwise injured such sheep or lamb: Provided also, that no such penalties shall be enforced in case it shall appear to the satisfaction of such Justice of the Peace that it was not in the power of such owner or keeper to kill such dog or dogs.

**13.** In cases where parties have been assessed for dogs, and the Township collector has failed to collect the taxes authorized by this Act, he shall report the same under oath to any Justice of the Peace, and such Justice shall, by an order under his hand and seal, to be served by any duly qualified constable, require such dogs to be destroyed by the owner or owners thereof; and if such owner or owners neglect or refuse to obey the said order he or they shall be liable to the penalty, to be recovered in the same way and manner as already provided in section number seven of this Act; and in case any collector neglects to make the aforesaid report within the time required for paying over the taxes levied in the municipality, he shall be liable to a penalty of ten dollars and costs, to be recovered in the same way and manner as already provided in section number seven of this Act.



**14.** If the council of any county or union of counties should, as already provided by by-law, decide to dispense with the levy of the aforesaid tax in the municipality within its jurisdiction, the owner of any sheep or lamb to the contrary may notwithstanding sue the owner or keeper of any dog or dogs for the damage or injury done by the said dog or dogs to the said sheep or lamb; and the same shall be recovered in the way and manner provided by section seven of this Act.

Liability of dog owner to sheep owner where tax not imposed.

**15.** The owner of any sheep or lamb, killed or injured while running at large upon any highway or unenclosed land, shall have no claim under this Act to obtain compensation from any municipality.

Cases where owner of sheep, etc., has no compensation.

**16.** Every Justice of the Peace shall be entitled to charge such fees in cases of prosecutions or orders under this Act as it is lawful for him to do in other cases within his jurisdiction; and he shall make the returns usual in cases of conviction, and also a return in each case to the Clerk of the municipality, whose duty it shall be to enter the same in a book to be kept for that purpose.

Fees and returns by Justices.

**17.** In case the council of any county or union of counties deems it advisable that the tax by this Act established should be maintained, but that the application of the proceeds thereof by this Act provided should be dispensed with, it shall be lawful for such council by by-law to declare, that such application shall be dispensed with; and thereafter, during the continuance of such by-law, the clauses of this Act numbered from six to fifteen inclusive, shall have no force or effect in any of the municipalities within the jurisdiction of such council; and the moneys collected and paid to the Clerk or Treasurer of any such municipality, under the remaining clauses of this Act, shall be the property of such municipality, and shall be subject to its disposition in like manner as other local taxes.

Provision for cases in which council maintains taxes, but does not apply proceeds thereof.

**18.** The council of any county or union of counties shall have power, from time to time, to repeal any by-law passed under the authority of this Act, and to enact or re-enact any by-law authorized by this Act.

County council may repeal by-laws passed under Act.

## CAP. XXXII.

## An Act respecting Tavern and Shop Licenses.

[Assented to 23rd January, 1869.]

Preamble.

**W**HEREAS it is expedient to amend and consolidate the several enactments relating to tavern and shop licenses : Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

No person to  
sell liquors  
without li-  
cense.

**1.** No person shall sell by retail any spirituous, fermented or other manufactured liquors within the Province of Ontario, without having first obtained a license authorizing him so to do, as hereinafter provided.

Licenses to be  
on stamped  
paper.

**2.** It shall be lawful for the Lieutenant Governor in Council to direct the issue of licenses on stamped paper, written or printed, or partly written and partly printed, of the several values after mentioned, which said licenses shall be signed by the Treasurer of this Province.

Duties  
payable.

**3.** Over and above the sum which may be imposed by municipalities, as hereinafter provided, there shall be paid for each tavern license, to and for the use of Her Majesty (and forming part of the Consolidated Revenue Fund of this Province), in cities, a duty of twenty dollars ; in towns, of seventeen dollars ; and in townships and incorporated villages, of ten dollars ; for vessels navigating the waters of this Province, of twenty dollars ; and for each shop license, of twelve dollars : Provided that for each tavern license mentioned in section six, subsection five the Provincial duty shall be twenty-five dollars.

Proviso.

Issuer of  
licenses to be  
appointed.

**4.** The Lieutenant Governor may, from time to time, appoint one fit and proper person in each county, city, riding or municipality, to be called "Issuer of licenses," whose duty it shall be to issue licenses for the county, city, riding or municipality for which he shall be appointed, and who shall countersign every license issued by him, for which service he shall be entitled to retain out of the moneys received by him for licenses the sum of six per centum, and the residue thereof he shall pay to the Treasurer of Ontario, in such manner as the said Treasurer shall, from time to time, direct.

Duties and  
remuneration.

Licenses how  
issued.

**5.** Every license shall be issued by the issuer of licenses for the county, city, riding or municipality in which the tavern, shop, house or place to which the license is to apply shall be situate, except in the case of licenses for vessels, which may be issued by any issuer of licenses without any certificate or any of the terms, conditions or formalities required in other cases :

Vessel  
licenses.

cases: Provided always, that all licenses shall be constantly and conspicuously exposed in the shops or in the bar room of taverns, inns, ale houses, beer houses, or other places of public entertainment, and in the bar saloon or bar cabin of vessels, under a penalty of five dollars for every day's wilful or negligent omission so to do, to be recovered with costs from the shop-keeper or tavern, inn, ale house or beer house keeper, or keeper of any other place of public entertainment, or master, captain, or owner of the vessel so making default.

Proviso.

Penalty.

6. The council of every township, town and incorporated village, and the commissioners of police in cities may respectively pass by-laws—

Council and police commissioners may make by-laws,

(1.) For granting certificates to obtain tavern licenses for the retail of spirituous, fermented or other manufactured liquors, to be drunk in the tavern, inn, ale house, beer house or other place of public entertainment in which the same is sold, and also licenses for the retail of such liquors in quantities not less than one quart in shops, or places other than taverns, inns, ale houses, beer houses or places of public entertainment;

for granting tavern and shop license certificates.

(2.) For declaring the terms and conditions required to be complied with by an applicant for a tavern license, and the security to be given by him for observing the same;

Terms and conditions.

(3.) For declaring the security to be given by an applicant for a shop license, for observing the by-laws of the municipality;

Security.

(4.) For limiting the number of tavern and shop licenses respectively;

Number limited.

(5.) For declaring that in cities a number not exceeding ten persons, and in towns a number not exceeding four persons, qualified to have a tavern license, may be exempted from the necessity of having all the tavern accommodation required by law;

Certain persons exempted from having accommodation.

(6.) For regulating the houses or places to be licensed; the time the licenses are to be in force, not exceeding one year, dating from the first day of March in each year; and the sums to be paid therefor respectively;

Regulation of public houses.

(7.) For prohibiting the sale by retail of spirituous, fermented or other manufactured liquors in any tavern, inn or other house or place of public entertainment; and for prohibiting altogether the sale thereof in shops and places other than houses of public entertainment: Provided that the by-law before the final passing thereof has been duly approved of by the electors of the municipality in the manner provided by the Acts twenty-nine and thirty Victoria, chapter fifty-one;

Sale of liquors in taverns or shops may be prohibited.

Proviso.

(8.)



Inspectors  
may be ap-  
pointed,

(8.) For appointing annually one or more fit and proper persons, possessing the same property qualifications as that required for members of the council of the municipality, to be Inspector or Inspectors of licenses ;

and their  
duties and re-  
muneration  
defined.

(9.) For fixing and defining the duties, powers and privileges of the inspector or inspectors so appointed; the remuneration he or they shall receive; and the security to be given for the efficient discharge of the duties of the office of Inspector.

Accommoda-  
tion required.

7. Every tavern and inn, authorized to be kept under the provisions of this Act, shall contain, in addition to what may be needed for the use of the family of the tavern or inn-keeper, not less than four bed rooms, with a suitable complement of bedding and furniture, and (except in cities and incorporated towns), there shall also be attached to the said tavern or inn, proper stabling for at least six horses.

Certificate of  
number of li-  
censes issuable  
to be furnished  
to issuer.

8. The Clerk of every municipality and the police commissioners in every city shall, where the number is fixed by by-law on or before the fifteenth day of February in each year, deliver to the issuer of licenses for the county, city, riding or municipality in which such municipality is situate, a certificate under his or their hand, stating and shewing the number of tavern and shop licenses which are authorized by the by-law in that behalf to be issued for the then next ensuing year; and any such Clerk or police commissioners neglecting, omitting or refusing to deliver such certificate by the time aforesaid, shall incur a penalty of not less than forty dollars, nor more than one hundred dollars.

Penalty.

Issuer not to  
issue a greater  
number.

9. The issuer of licenses for each county, city, riding or municipality, as the case may be, shall not issue a greater number of tavern and shop licenses in any county, city, riding or municipality, than is named in such certificate or certificates, as the case may be.

Sums to be  
paid in addi-  
tion to Pro-  
vincial duty.

10. The sum to be paid for a tavern or shop license, in addition to the Provincial duty hereinbefore imposed, shall be such a sum as shall be fixed by by-law as aforesaid, and, including the Provincial duty, shall be in cities, not less than eighty dollars; in towns, not less than sixty dollars; and in townships and incorporated villages, not less than thirty dollars for each tavern license; and in all the places aforesaid, not less than fifty dollars for each shop license: Provided always, that for each tavern license mentioned in section six, subsection five, the said sum in cities shall not be less than one hundred and twenty dollars, and in towns not less than one hundred dollars; but no by-law by which a greater sum than one hundred and thirty dollars per annum is intended to be exacted for any tavern or shop license, or for leave to exercise any other calling, or to do any other thing for which

Proviso.

which a license may be required, shall have any force or effect, unless the by-law, before the final passing thereof, shall have been duly approved by the electors of the municipality in the manner provided by the Act twenty-nine and thirty Victoria, chapter fifty-one; and any by-law so passed shall not be varied or repealed, unless the varying or repealing by-law shall have been in like manner submitted to and approved of, by the electors of the said municipality.

Such sum to be approved by public vote, etc.

11. Every tavern and shop license issued under this Act shall be a license for the purpose of the Provincial duty, as well as for the sum to be fixed therefor by by-law as aforesaid; and the sum paid for the license, over and above the Provincial duty, shall be applied to the use of the municipality within which is situate the tavern, inn, ale house, beer house, shop or other place in which such license is to have effect.

Licenses to be such for purposes of Provincial duty, etc.

12. No certificate for a license to retail spirituous fermented or other manufactured liquors in any tavern, ale house, beer house, place of public entertainment or shop, shall be granted to any applicant, except upon petition by the applicant to the council of the township, town, or incorporated village, and to the commissioners of police in cities, as the case may be, in which the license is to have effect, praying for the same; nor until the Inspector, to be appointed as aforesaid, shall have reported that the applicant is a fit and proper person to have a license, and has all the accommodation required by law: Provided always, that it shall not be lawful for the council of any township, town, incorporated village, or the commissioners of police in any city, to grant any certificate for a license, or any certificate whatsoever, whereby any person can obtain or procure any license for the sale of spirituous, fermented or intoxicating liquors, on the days of the exhibition of the Agricultural Association of Ontario, or of any county, electoral division, or township Agricultural Society exhibition, either on the grounds of such society, or within the distance of three hundred yards from such grounds.

No certificate to be granted except upon petition.

Proviso as to its being granted at certain times and places.

13. Any member of a municipal corporation, or officer or other person who shall, contrary to the provisions of this Act, vote for or issue, or cause or procure to be issued, a certificate for a tavern or shop license, shall, upon conviction thereof, for each offence pay a fine of not less than forty dollars nor more than one hundred dollars; or the offender or offenders may be imprisoned in the county jail of the county in which the conviction takes place for a period not exceeding three calendar months.

Penalty for issuing certificate contrary to this Act.

14. It shall be the duty of the commissioners of police in cities, of the Mayor and Clerk in towns, and Reeve and Clerk in townships and incorporated villages, respectively, upon application of any person requiring a license, if it shall appear that such applicant has complied with the requirements

Cases in which certificates may be granted.



Mode of procedure for obtaining tavern licenses.

Proviso.

ments of the law, and of the by-laws and regulations of the municipality made in that behalf, and is therefore entitled thereto, to grant such applicant a certificate under his or their hand, stating that he is entitled to a license for a certain time, and for a certain tavern, inn, house or place of public entertainment, or shop within the municipality to be mentioned in such certificate; and the said applicant shall forthwith take the said certificate to the issuer of licenses for the municipality within which the said license is to have effect, and, on presentation thereof to the said issuer of licenses, and payment to him of the Provincial duty thereon, the said issuer of licenses shall issue to such applicant a license: Provided always, that the said license shall be invalid, inoperative and of no effect until the said applicant shall have paid to the Chamberlain or Treasurer of the said municipality the sum fixed therefor by the said municipality in manner in this Act provided, for the use of the said municipality, and shall have obtained a receipt for such payment signed by the said Chamberlain or Treasurer, and endorsed on the said license; and it shall be the duty of the said Chamberlain or Treasurer, on payment or tender to him of the money last aforesaid and the said license, to fill up and sign such receipt.

Not lawful for chamberlain or treasurer to take money for certificate, until Provincial duty paid.

**15.** It shall not be lawful for the commissioners of police in cities, or any of them, nor for any member of any municipal council, nor for the Clerk, Chamberlain, Treasurer or any officer of such municipality, either directly or indirectly, to receive, take, or have any money whatsoever, for any certificate, matter or thing connected with, or relating to any license, or the sum to be therefor paid to the said municipality, or any part thereof, or to receive, take or have any note, security, or promise for the payment of any such money or any part thereof, from any person or persons whatsoever, until and after the said license shall have been issued by the issuer of licenses in the manner aforesaid; and any person or persons guilty of, or concerned in, or a party to any act, matter or thing contrary to the provisions of this section, or that immediately preceding it, shall forfeit and pay to and for the use of Her Majesty a penalty of not less than fifty dollars, nor more than one hundred dollars besides costs, for every such offence.

Penalty.

Forfeiture of office by municipal officer, if convicted under Act.

**16.** If any officer of any municipal corporation shall be convicted of any offence under this Act, he shall thereby forfeit and vacate his office, and he shall be disqualified to hold any office in any municipality in this Province for two years thereafter.

Forfeiture of office by municipal councillor if convicted.

**17.** If any member of any municipal council shall be convicted of any offence under this Act, he shall thereby forfeit and vacate his seat, and shall be ineligible to be elected to or to sit or vote in any municipal council for two years thereafter; and if any such person, after the forfeiture aforesaid, shall sit



sit or vote in any municipal council, he shall incur a penalty of forty dollars for every day he shall so sit or vote. Penalty.

**18.** If any person, having lawfully obtained a license under this Act, dies before the expiration of his license, or removes from the house or place in respect of which the said license applies, such person, his assigns or legal representatives may, with the consent of the issuer of licenses for the municipality in which the said license has effect, (such consent to be endorsed on the said license and for which a fee of two dollars shall be paid to the said issuer of licenses,) transfer such license to any other person who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in the house or place for which such license was issued and to which it applies, but in no other house or place: Provided always, that, in every such case, the person in whose favour any such transfer is to be made, shall first produce to the said issuer of licenses the certificate mentioned in the fourteenth section of this Act: Provided also, that such transfer shall be made within one month after the death or removal of the original holder of such license, and not afterwards. Transfers of licenses.  
Proviso.  
Proviso.

**19.** Any inspector of licenses may, in his discretion, but subject to any by-law of the municipality, or commissioners of police, endorse on any license permission to the holder thereof, or his assigns or legal representatives, to sell the liquors mentioned in his license at any place out of his house, or to remove from the house to which his said license applies to another house to be described in an endorsement to be made by the said inspector on the said license, and situate within the same municipality; and such permission shall authorize the holder of the said license to sell the same liquors in the house mentioned in the endorsement during the unexpired portion of the term for which the said license was granted, and upon the same terms and conditions; and any bond or security which such holder of a license may have given for any purpose relative to such license, shall apply to the house or place to which such removal is authorized, but shall not entitle him to sell at more than one place at the same time. Inspector of licenses may consent to removal of tavern keeper to another house.

**20.** Every person who keeps a tavern, inn, ale house, beer house, or other house, or place of public entertainment, and has a tavern license, shall exhibit over the door of such tavern, inn, ale house, beer house, or other place of public entertainment, in large letters, the words "Licensed to sell wine, beer, and other spirituous or fermented liquors," and, in default thereof, shall be liable to a penalty of one dollar besides costs. Tavern keepers to exhibit notice of being licensed.  
Penalty.

**21.** No licensed shop keeper, or other person having a shop license, Shop license license,

not to authorize liquor sold to be consumed in the house.

Penalty.

license, shall allow any liquors sold by him, and for the sale of which a license is required, to be consumed within his shop, or within the building of which such shop is a part, either by the purchaser thereof, or by any other person not usually resident within such building, under a penalty of ten dollars besides costs.

Penalty for selling without license.

**22.** Any person who shall sell or barter spirituous, fermented or manufactured liquors of any kind, or intoxicating liquors of any kind, without the license therefor by law required, shall, for the first offence, on conviction thereof, forfeit and pay a penalty of not less than twenty dollars besides costs, and not more than fifty dollars besides costs; and for the second offence, on conviction thereof, such person shall be imprisoned in the county jail of the county in which the offence was committed, to be kept at hard labor for a period not exceeding three calendar months; and for the third and any after offence, on conviction thereof, such person shall be imprisoned in the county jail of the county in which the offence or offences were committed, to be kept at hard labor for a period of six calendar months; and the number of convictions may be ascertained by the production of a certificate under the hand of the convicting Justice, or by other satisfactory evidence.

All places where intoxicating liquors sold to be closed from seven o'clock on Saturday night till six o'clock on Monday morning.

Exception.

**23.** In all places where, by the laws of the Province of Ontario, intoxicating liquors are, or may be allowed to be sold by wholesale or retail, no sale or other disposal of the said liquors shall take place therein, or on the premises thereof, or out of or from the same to any person or persons whomsoever from or after the hour of seven of the clock on Saturday night till the hour of six of the clock on Monday morning thereafter, and during any further time on the said days, and any hours on other days during which, by any by-law of the municipality wherein such place or places may be situated, the same, or the bar-room or bar-rooms thereof, ought to be kept closed, save and except in cases where a requisition for medicinal purposes, signed by a licensed medical practitioner, or by a Justice of the Peace, is produced by the vendee or his agent; nor shall any such liquor be permitted or allowed to be drunk in any such places, except as aforesaid, during the time prohibited by this Act for the sale of the same.

Penalty for contravention of sec. 23.

**24.** For punishment of offences against the next preceding section of this Act, a penalty, for the first offence against the provisions thereof, of not less than twenty dollars with costs, or fifteen days imprisonment with hard labour, in case of conviction, shall be recoverable from, and leviable against, the goods and chattels of the person or persons who are the proprietors in occupancy, or tenants or agents in occupancy of the said place or places, who shall be found by himself, herself, or themselves, or his, her or their servants or agents, to have contravened the enactment in the preceding section, or any part thereof;



thereof; for the second offence, a penalty against all such of not less than forty dollars with costs, or twenty days imprisonment with hard labour; for a third offence, a penalty against all such of not less than one hundred dollars with costs, or fifty days imprisonment with hard labour; and for a fourth or any after offence, a penalty against all such of not less than three months imprisonment with hard labour, in the common jail of the county wherein such place or places may be, the number of such offences to be ascertained by the production of a certificate under the hand of the convicting Justice, or by other satisfactory evidence to the Justice before whom the information and complaint may be made; and it is hereby enacted, that convictions for several offences may be made under this Act, although such offences may have been committed in the same day: Provided always, that the increased penalties hereinbefore in this section imposed shall only be recoverable in the case of offences committed on different days. Proviso.

**25.** All prosecutions under this Act for the offences of vending, selling or disposing of wine, whiskey, gin, rum, brandy, beer, ale, cider or any spirituous, fermented or manufactured liquors without license, whether the prosecution be for the recovery of a penalty or for punishment by imprisonment, shall take place before any two or more of Her Majesty's Justices of the Peace having jurisdiction in the municipality in which the offence is committed, or in cities and towns where there is a Police Magistrate, before the Police Magistrate, who, it is hereby declared, shall have authority to hear and determine the same in a summary manner according to the practice and procedure, and after forms contained in and appended to the Act chapter one hundred and three of the Consolidated Statutes of Canada, entitled *An Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders*, and the Act or Acts amending the same; and on such trial and proceedings the prosecutor or complainant shall be a competent witness, and the conviction or order of the said two or more Justices, or of the said Police Magistrate, as the case may be, shall be final and conclusive; and against such conviction or order, there shall be no appeal to the Court of General Sessions of the Peace, or to any other Court, any statute, usage, custom, or law to the contrary notwithstanding; and all prosecutions under this section shall be commenced within twenty days after the commission of the offence or after the cause of action arose, and not afterwards. Prosecutions for selling without license to be before two or more Justices or Police Magistrate.

Mode of procedure.

Conviction to be final.

Prosecutions to be commenced within twenty days.

**26.** All prosecutions under this Act, other than those mentioned in the next preceding section and section thirty-five, whether for the recovery of a penalty or otherwise, may be brought and heard before any one or more of Her Majesty's Justices of the Peace in and for the county where the forfeiture took place, or the penalty was incurred, or the offence was committed or wrong done, and in cities and towns in which there is

All other prosecutions may be before one or more Justices, or a Police Magistrate.



Mode of procedure.

Prosecutions to be commenced within two months.

Any person may be prosecutor, etc.

Provision as to harbouring constables on duty.

Right of constables to enter taverns, etc.

Penalty.

Penalty for tampering with a witness.

Penalty in money in certain cases, how to be paid.

is a Police Magistrate, before the Police Magistrate; and the procedure shall be that of Justices out of Sessions in relation to summary convictions and orders; and all prosecutions provided for under this section shall be commenced within two months after the commission of the offence or the cause of action arose, and not afterwards.

**27.** Any person may be the prosecutor or complainant in prosecutions under this Act; and no person shall be rendered incompetent as a witness by reason of his being entitled to any portion of the penalty sought to be recovered.

**28.** Any person licensed to sell wine, beer or spirituous liquors, or any keeper of any house, shop, room, or other place for the sale of liquors, who shall knowingly harbour or entertain any constable belonging to any police force, or suffer such person to abide or remain in his shop, room or other place during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance, or restoring order, or otherwise in the execution of his duty, shall, for any of the offences aforesaid, be deprived of his license.

**29.** Any police officer or constable may, at any time, enter into any tavern, inn, ale house, beer house, or other house or place of public entertainment, or into any shop or other place wherein refreshments or liquors are sold, or reputed to be sold, whether legally or illegally; and any person being therein, or having charge thereof, who refuses, or after due summons, fails to admit such police officer or constable into the same, or offers any obstruction to his admission thereto, shall be liable to a penalty of not less than ten dollars, nor more than fifty dollars for every such offence.

**30.** Any person who, on any prosecution under this Act, tampers with a witness, either before or after he or she is summoned or appears as such witness on any trial or proceeding under this Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself or herself, or to swear falsely, shall be liable to a penalty of fifty dollars for each offence.

**31.** Except otherwise expressly declared, the penalties in money in this Act mentioned, or any portion of them which may be recovered, shall be paid to the convicting Justice or Justices in the case, and by him or them paid equally, one-half to the prosecutor or complainant, and the other to the Treasurer of the municipality wherein the offence was committed and the cause of action arose; and for the recovery of the said penalties and legal costs upon and after conviction, in cases not appealable, and in cases appealable, where no appeal has been perfected according to law, it shall and may be lawful for any Justice or Justices to issue a warrant of distress to any constable

stable or peace officer against the goods and chattels of the person or persons convicted; and, in case no sufficient distress be found to satisfy the said conviction, then it shall and may be lawful for the said Justice or Justices to order that the person or persons so convicted be imprisoned in any common gaol within the county in which such conviction was made for any period not exceeding thirty days, unless the penalty and all costs be sooner paid.

Penalties and costs, how recoverable.

**32.** Any person who, having violated any of the provisions of this Act, shall compromise, compound or settle, or shall offer or attempt to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint shall have been made with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution, or otherwise, shall be guilty of an offence under this Act, and, on conviction thereof, shall be imprisoned at hard labour in the common gaol of the county in which the offence was committed for the period of three calendar months.

Penalty in case any person shall compromise, compound or settle a case.

**33.** Every person who shall be concerned in, or be a party to the compromise, composition or settlement mentioned in the next preceding section, shall be guilty of an offence under this Act, and, on conviction thereof, shall be imprisoned in the common gaol of the county in which the offence was committed, for the period of three calendar months.

Penalty for being concerned in any such compromise, etc.

**34.** In case any by-law respecting tavern or shop licenses is repealed, altered or amended, no person shall be required to take out a new license, or to pay any additional sum upon his license during the time for which the same has been granted to him.

Licenses when not required to be renewed.

**35.** The Mayor or Police Magistrate of a town or city, or the Reeve of a township or village, with any one Justice of the Peace, or any two Justices of the Peace having jurisdiction in the township or village, upon complaint made on oath to them, or one of them respectively, of riotous or disorderly conduct in any inn, tavern, ale house, beer house, or other house of public entertainment situate within their jurisdiction, may summon the keeper of the inn, tavern, ale or beer house to answer the complaint, and may investigate the same summarily, and either dismiss the complaint with costs to be paid by the complainant, or convict the keeper of having a riotous or disorderly house, and annul his license, or suspend the same for not more than sixty days, with or without costs, as in his or their discretion may seem just; and in case the keeper of any such inn, tavern, ale house, beer house, or place of public entertainment, shall be convicted under this section, and his license annulled, he shall not be eligible to obtain a license for the period of two years thereafter.

Keepers of disorderly inns subject to certain penalties.



Penalties or punishments not to be remitted.

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**36.** No Police Magistrate or Justice or Justices of the Peace, municipal council or municipal officer shall have any power or authority to remit or compromise any penalty or punishment inflicted under this Act: Provided, however, that any conviction under this Act, except convictions under sections twenty-five and thirty-five, may be appealed from to the Court of General Sessions of the Peace, under the provisions of chapter one hundred and fourteen of the Consolidated Statutes of Upper Canada; but every such appeal shall be tried by the chairman of the said court without a jury.

Meaning of words "liquors" and "liquor."

**37.** In this Act the word "liquors" or "liquor" shall be understood to mean and comprehend all spirituous and malt liquors, and all combinations of liquors and drinks and drinkable liquids which are intoxicating.

By-laws by police commissioners in cities may have penalties attached thereto, etc.

**38.** In all cases where the Board of police commissioners in cities are authorized to make by-laws, either under this or any other Act or law, they shall have power in and by such by-laws to attach penalties for the infraction thereof, to be recovered and enforced by summary proceedings before the Police Magistrate of such city for which the same may be passed, or in his absence, before any Justice of the Peace having jurisdiction therein, in the manner and to the extent that by-laws of city councils might be enforced under the authority of the Municipal Act of one thousand eight hundred and sixty-six; and the convictions in such proceedings may be in the form set forth in the said Act.

How such by-laws authenticated, etc.

**39.** All by-laws of such Board of police commissioners shall be sufficiently authenticated by being signed by the chairman of such Board, who shall pass the same; and a copy of any such by-law written or printed and certified to be a true copy by any member of such Board, shall be deemed authentic and be received in evidence in any Court of justice without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original by-law has been forged.

Certain Acts and sections of Acts hereby repealed, but pending proceedings not thereby affected.

**40.** Sections from two-hundred and forty-nine to two hundred and sixty-three, both inclusive, and sections two hundred and sixty-five, two hundred and sixty-six and two hundred and sixty-seven of the Act of the last session of the Parliament of the late Province of Canada, entitled *An Act respecting the Municipal institutions of Upper Canada*, and also the Act of the Legislature of this Province, passed in the first session of the present Legislature, thirty-one Victoria, chapter five, and all other Acts or parts of Acts which may be inconsistent with this Act are, and each and every of them is hereby repealed: Provided always, that all things and all proceedings done, taken, or commenced, shall not be affected by the repeal of the said last mentioned Act, or of the said sections of the said first mentioned Act, or of any other Acts but

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but the same and every of them shall be, remain and continue the same as though this Act had not passed.

41. This Act may be cited as "The Tavern and Shop Title. License Act of 1868."

### CAP. XXXIII.

#### An Act respecting the Partition and Sale of Real Estate in the Province of Ontario.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. "Land" and "lands" in this Act shall mean and include lands, tenements and hereditaments, and all estates and interests therein; "petitioner" or "plaintiff" herein shall mean and include all parties petitioning by virtue of this Act; and all parties, or those made parties to the proceedings under this Act (other than the plaintiffs or petitioners), shall be defendants. Interpretation clause.

2. The Judge of the Surrogate Court in each county in the Province of Ontario, shall be the real representative for all real property within such county, in respect of or to which any person being seized of, or entitled to any estate in fee simple therein, dies intestate, and for all other purposes hereinafter mentioned. Judge of Surrogate Court to be real representative.

3. Every partition of lands, voluntarily made by the parties thereto, shall be made by deed, otherwise the same shall be void. Voluntary partitions.

4. All joint tenants, tenants in common and co-parceners; all doweresses and parties entitled to dower, tenants by the courtesy, mortgagees, or other creditors having liens thereon, and all parties whomsoever interested in, to and out of any lands in Ontario, shall and may be compelled to make, or suffer partition or sale of the said lands, or any part or parts, as hereinafter mentioned and provided. All parties having interest or lien to make partition or sale.

5. When such lands are situate in two or more counties, the proceedings shall be instituted in the Court of Queen's Bench or Common Pleas, or in the Court of Chancery; and when the lands are situate in one county only, the proceedings may be instituted in the County Court of such county, or in any of the Superior Courts of law or equity aforesaid; and such proceedings may be carried on as hereinafter provided. When lands in one county or in several counties.

6.

Any party interested may petition for partition or sale.

6. Any party interested in any land in the said Province, or the duly authorized agent of any such party, by the guardian (duly appointed by any Surrogate Court) of any infant entitled to the immediate possession of any estate therein, can and may file a petition in any of the Courts aforesaid, praying that partition of such lands may be made, or that the same may be sold under the directions of the Court wherein the proceedings are taken, or of any Judge thereof: Provided such sale be considered by the said Court or Judge more advantageous to the parties interested: Provided also, that no proceedings shall be taken under this Act, until six months next after the decease of the testator or party dying intestate, in whom the lands or estate in lands to be so partitioned or sold may be vested.

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Entitling of proceedings.

7. All proceedings under this Act shall be entitled in the Court in which the same may happen to be instituted, and shall be further described, "In the matter of partition between A.B. (*naming the petitioner, or if more than one, naming all the petitioners in full*), plaintiff (or plaintiffs) and C.D. (*naming each and every then known party or parties having any legal estate in the lands other than the petitioners*), as defendants."

Every party having an interest may be made party.

8. Every party having, at the time of filing the said petition, any interest as aforesaid, shall and may be made a party to such partition proceedings; and the petition shall particularly describe the lands sought to be partitioned or sold, and shall also set forth the interest of the petitioner therein, and his, her or their respective place or places of residence and occupations, and the estate, rights and titles of all parties interested therein in any wise whatsoever, so far as the same may be known to the party or parties petitioning as aforesaid; and in case any one or more of such parties, or the share or extent of interest, or estate in the said lands of any party interested, be unknown to the said petitioner or petitioners, he, she, or they shall set forth the fact thereof in such petition; and the truth of the petition, and matters contained therein, shall be verified by the oath or affirmation of at least one petitioner, or his, her, or their agent or guardian, as the case may be; such oath or affirmation to be taken before the Judge of any of the said Courts, or a commissioner for taking affidavits therein.

What petition shall set forth.

In case party interested be a minor.

9. In case any of the parties interested, other than a petitioner by guardian, be a minor, and in case it be satisfactorily proved to the satisfaction of the Court or any Judge of the Court presiding in chambers, that at least fourteen days' notice has been served on such minor or minors as reside in the Province of Ontario, or otherwise served as hereinafter provided, that proceedings will be taken under this Act for the partition or sale of the lands, and that such Court or Judge will be applied to, at the time and place specified in such notice, to appoint a guardian to represent the said infant party or parties

in

in such proceedings, such Court or Judge shall and may thereupon, whether the said minor or minors, or any of them, reside within or without the said Province, appoint a suitable and disinterested person to be a guardian for one or more of such minors, for the special purpose of taking charge of the interests of such minors in the proceedings upon such petition.

**10.** Every guardian so appointed shall, before entering upon his duties, execute to the real representative of the county wherein the estate, or any part thereof, is situate, by his own name of office as Surrogate Judge and real representative for the county, and his successors in office, and according to the terms of the rule or order appointing such guardian, a bond in such penalty, and with such sureties as the Court in which the petition has been filed, or any Judge thereof presiding in chambers, may direct, and to be allowed by the Master or Clerk, or Deputy Clerk of such Court, upon proper proof of the sufficiency thereof, conditioned for the faithful discharge of the trust committed to the said guardian, and to render a just and true account of his, her or their guardianship when required by the Court or any Judge thereof, and upon such further conditions as the said Court or Judge may direct; and no proceedings shall be taken upon the petition until such bond shall have been filed in the office of the Clerk or Deputy Clerk of the Crown, Clerk of the County Court, or Registrar or Deputy Registrar of the Court of Chancery, as the case may be, wherein the petition has been filed.

Guardian to enter into a bond with sureties.

**11.** After the execution and filing of such bond, such guardian shall represent the said minors in the proceedings upon the said petition; and his acts in relation thereto shall be binding on such minor, and shall be as valid as if done by such minor, after having arrived at full age.

Guardian to represent minors.

**12.** It shall not be compulsory, in the first instance, to make any person, having a lien on the estate, or any part thereof, by judgment, decree, mortgage or otherwise, a party to the proceedings, but the petitioner may make such creditor a party, and, in such case, the petition shall set forth the nature of the lien or incumbrance; and if such lien or incumbrance is on the undivided interest or estate of any of the parties to the petition, it shall be a lien only on the share of such party; and such share or estate, as the case may be, shall be first charged with its just proportion of the costs of the proceedings in partition in preference to any such lien: Provided that if the person having such lien shall not be made a party to the proceedings, his lien shall not be impaired or affected thereby.

Incumbrancers may be made parties after proceedings commenced.

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**13.** In cases where all the parties interested, or known to be interested, in the estate, respecting which the proceedings are taken under this Act, are residents, or happen, for the time being, to be in the Province of Ontario, a copy of the petition, with

How petition served when all parties in Ontario.



Proviso.

with notice that the same will be presented to the Court wherein the proceedings are taken, or any Judge thereof presiding in chambers, on some day and hour to be named therein, shall be personally served thirty clear days previous to the said day of presenting the same as aforesaid, on all the parties, whether minors or not, resident or being as aforesaid in the said Province, who are interested in the lands and estate in question, or on any duly authorized agent or Attorney of any of the parties interested in such estate; and every such notice shall be addressed to all the parties interested who are known, and generally to all others unknown, having or claiming any interest in such estate, or whom it may concern: Provided always, that it shall not be necessary to serve such petition or notice upon any guardian appointed as aforesaid, if the same have been previously served upon the minor or minors for whom such guardian or guardians shall be appointed.

How petition served when parties unknown, or reside abroad, etc.

14. If any parties having such interest be unknown, or if known, reside out of the Province of Ontario, or cannot be found therein, and have no known Attorney or agent residing therein, the petition and notice may be served upon them, or any of them, by publication of a copy of the said petition and notice for two calendar months previous to the presentation of the said petition as aforesaid, once in each week successively in the *Ontario Gazette*, and in one or more papers published in the county where the estate, or any part thereof in Ontario, may be situate; and, if there be none there, in some newspaper published in the nearest adjoining county to such estate wherein a newspaper may then be published; which publication, upon proof thereof by affidavit, shall to all intents and purposes, be equivalent to personal service upon all or any such unknown or absent parties; or such petition and notice may be personally served, without such publication, on any known absent party or parties, or upon his, her or their Attorney or Attorneys, agent or agents, if he, she or they has or have any residing in Ontario, thirty clear days previous to the presentation thereof; and the reasonable costs of serving such absent parties shall be taxable as costs of the proceedings.

Application for partition and order.

15. Upon the presentation of a petition, and upon such proof of service or publication thereof, with the notice as aforesaid, and of the facts justifying the mode of publication as may be satisfactory, the Court or any Judge thereof presiding in chambers, shall and may by rule or order allow the said petition; and thereupon the parties interested in the estate shall and may appear in person or by Attorney or Solicitor, and by a concise statement of facts under oath, by way of plea or answer, and further, according to the practice of the Court in which the petition may have been filed, show title as to the proportions which they or any of them claim of the premises set forth in the petition, within fifteen days next after being served with a copy of the said rule or order, with a notice to be annexed thereto

thereto or endorsed thereon, requiring them to plead or answer within the time above specified.

**16.** Notice of the rule or order of allowance and any copies thereof, and all other rules, orders or copies, notices or other paper writings in any proceeding subsequent to the service of the petition, unless otherwise in this Act specially directed, may be served on the Attorney or Solicitor of any party so pleading or answering, and, in case there is no Attorney or Solicitor, by affixing the same in the office of the Clerk or Deputy Clerk of the Crown, County Court Clerk or Registrar or Deputy Registrar of the Court of Chancery, as the case may be, in the county wherein the estate or any part thereof is situate, as the case may be, which shall be equivalent to and effectual as personal service on the party or parties to be affected thereby.

How notice of allowance, etc., served.

**17.** Any party appearing may plead or answer under oath, either separately or jointly, with one or more of his co-defendants, that the petitioners, or any of them, at the time of prosecuting the petition, were not entitled to or in possession of the premises or any part thereof; or that the defendants, or any of them, had no interest in the premises, or did not hold the same, together with the petitioners, at the time of the commencement of the proceedings as alleged in the petition; or such other matter as such person shall desire to plead or answer according to the true facts; and, at the expiration of the fifteen days allowed for pleading or answering, the petitioner or petitioners may, upon a verified copy of the petitions and of all pleadings that may have been filed as aforesaid, and upon exhibiting *prima facie* proof of his, her or their title, and upon such statement or affidavit as may be necessary, apply to the Court or a Judge in chambers to finally determine any issues or questions raised by any party or parties interested; or for a rule or order directing the trial of any issues of fact that may have been raised by the pleadings; or that a special case may be stated for the opinion of the Court in which the petition shall have been filed; or both for the trial of an issue of fact or law; or for any other rule or order that the Court or a Judge may think proper under the circumstances.

Parties may plead, etc.

**18.** All issues so joined and ordered to be tried by the Court or a Jury, shall be tried by such Court or Jury in the same manner as other issues are determined, on a record made up of the said petition and of the defence pleaded thereto; and the like proceedings shall be had thereupon in every respect as to new trials or amendments, and any other particulars, as in personal actions; and any special case so ordered as aforesaid may be made up and proceeded upon, inclusive of signing judgment thereon, in like manner as the law directs for the practice as to special cases.

Issues to be tried thereon.

**19.** If none of the parties shall plead or answer for the period of

Proceedings of

in default of  
plea, order,  
etc.

of fifteen days next after the service as aforesaid of the rule or order of allowance of the said petition, the said petitioner or petitioners shall and may be at liberty to sign judgment of partition; and thereupon, and upon giving and serving fifteen days written notice thereof, in manner hereinbefore provided, and upon exhibiting the evidence and proofs in the next section of this Act mentioned, shall and may apply to the Court or a Judge for and obtain the rule or order, and proceed as in the next and following sections provided.

Petitioners to  
prove title,  
etc.

**20.** The petitioners shall, whether or not the other parties who have been called upon to appear and plead or answer shall have appeared and pleaded or answered, exhibit *prima facie* proof of their title at the time of the application for the order or rule for partition; or if an issue in fact has been ordered or a special case stated as aforesaid, then upon the final determination of the questions of law or fact, if any, so ordered to be tried as aforesaid, or in any or either of the cases aforesaid, the Court or a Judge shall, by rule or order, determine and declare the rights, title and interests of all the parties concerned, and thereby order the real representative to proceed as hereinafter directed according to such rights, but not so as to affect any parties whose rights have not been ascertained.

Order on real  
representa-  
tive to make  
partition.

**21.** The said Court or Judge shall, by such rule or order as in the last section mentioned, direct the real representative to make the partition so adjudged according to the respective rights and interests of the parties, as the same may have been ascertained and determined as aforesaid; and in such rule or order the Court or the Judge shall designate the parts or shares which remain undivided for the owners whose interests may be unknown and not ascertained; and the real representative shall forthwith proceed to make such partition, according to the judgment of the Court or Judge, unless it appears to him that the partition cannot be made without prejudice to the owners of the estate, in which case he shall make a return of such fact to the Court in writing under his hand.

How it shall  
be made.

**22.** In making the partition the real representative shall divide the real estate and allot the several portions and shares thereof to the respective parties so adjudged as aforesaid, designating the several shares by posts, stones or other permanent monuments; and he may employ a surveyor to assist him therein; and he shall make or cause to be made a true and accurate plan or map and field book of the land, and shall describe particularly the metes and bounds of the same; and he shall return to the Court or Judge having cognizance of the proceedings, the plan or map, field book and description, and shall report to the Court or Judge in writing the manner in which he has divided the estate, and the share allotted to each party, with the quantity, courses and distances of the boundaries of each share, and a description of the posts, stones or other monuments, together  
with

Report and  
return there-  
on.



with an account of his fees, which fees, together with any charges for surveys, shall be ascertained and allowed by the Court or Judge; and the amount shall be paid by the petitioners, and shall be allowed to them as part of the costs to be taxed against the estate.

**23.** The said report shall be proved by affidavit before a Commissioner for taking affidavits, and shall be filed in the said Court; and a copy thereof, after the report is confirmed by the Court, and certified under the hand of the Clerk and seal of the said Court, shall be registered in the county Registry office on the production thereof to the Registrar of the county where the estate is situate. Report proved, etc.

**24.** Upon the return of the report, the Court or a Judge in chambers shall confirm the same, or may remit the same back to the real representative for amendment in any particular or particulars in which there is manifest error; and upon a final confirmation a Judge's order may be granted and obtained, confirming in due form the said report; and such order shall be binding and conclusive on all known parties named in the petition, and when publication has been made as aforesaid, then also upon all unknown and absent parties, and all persons claiming from or through them; but such judgment shall not affect any person or persons having claims as tenants, tenants in dower, or by the courtesy, or for life, to the premises which form the subject of such partition, nor any person not named in the petition, either originally or by amendment, nor any unknown person, when there has not been such publication as aforesaid. Report to be confirmed or remitted for amendment. Effect of confirmation.

**25.** Upon the report of the real representative that it appears to him that partition cannot be made without prejudice to the owners of, or parties interested in, the estate, the Court or a Judge in chambers may order a sale of the estate, if deemed prudent so to do; and, by a rule or order to be made on filing the said report, may direct and order the real representative to cause the said estate, or any part thereof, to be sold by a fit and proper duly licensed auctioneer (to be approved of by the said real representative,) at public auction to the highest bidder, reserving to the real representative power, from time to time, to adjourn the sale, if in his judgment an adequate price is not bid for the estate, or any part thereof; and in such rule or order, the Court or Judge shall direct the terms of payment of the purchase money and the credit which may be allowed for any portions thereof, and of which such Court or Judge may think proper to direct the investment, and as are required by the provisions hereinafter contained, to be invested for the benefit of any unknown owners, infants, parties out of the Province, or any tenants for life, in dower, or by courtesy or otherwise; and such portions of the purchase money, for which credit is allowed, shall be secured at interest by a mortgage of the premises Sale if partition prejudicial.

premises sold by a bond of the purchaser, and by such other security as the Court or Judge aforesaid may prescribe in the said rule, or order or direct.

Mortgages  
taken on sale.

**26.** The real representative may take separate mortgages or other securities for such convenient shares or portions of the purchase money as have been directed to be invested as aforesaid in his own name of office as Surrogate Judge and real representative for the county, and his successors in office, and for such shares as any known owner or party interested of full age in the name of such owner; and upon such sale being confirmed, the real representative shall deliver such mortgage to the Clerk of the Court or Registrar, as the case may be, or deliver or assign the same to the known owner of the full age of twenty-one years, or his, her or their guardian or guardians, whose shares have been ascertained and so invested.

Provision for  
creditor, etc.

**27.** Before making any order for sale where any creditors have specific liens on the whole estate, or any undivided interest, or estate therein of any of the parties by means of any mortgage or other lien or security sufficient to bind lands according to the law of this Province, the Court or Judge in chambers shall direct the Clerk, Deputy Clerk of the Crown, Master or Clerk of the Court, as the case may be, to ascertain and report whether the shares or interests in the premises of the parties in the suit, or any of them, are subject to any and what general lien or incumbrance as aforesaid; and such Clerk, Deputy Clerk of the Crown, Master or Clerk of the Court, shall forthwith cause a notice to be published once in each week for three weeks, in some paper, if there be one, published in the county or counties where the lands are situate, or if there be none published therein, then in a paper published in the nearest county thereto, requiring all parties having any lien or incumbrance as aforesaid, on the whole or any part of the estate, to produce to the said Clerk, Deputy Clerk of the Crown, Master or Clerk of the Court, as the case may be, on or before a certain day to be named in such notice, full particulars of all such liens and incumbrances, together with satisfactory evidence of the amount due thereon; and the Clerk, Deputy Clerk of the Crown, Master or Clerk of the Court, shall immediately thereafter report to the Court or Judge the names of the creditors, the nature and extent of the incumbrance, the date thereof, and the several amounts appearing to be due thereon; and thereupon the Court or Judge, in the rule or order directing the real representative to partition or sell the lands, shall also make reference to such liens and incumbrances, and define the same; and the said real representative shall, in making such partition, be governed accordingly; and in any rule or order directing the sale of the said lands, or any part thereof, the Court or Judge shall and may authorize and direct the real representative to pay, satisfy and discharge the amounts of such liens or incumbrances

so ascertained, with any accrued interest thereon, up to the time of payment thereof, after deducting therefrom the portion of costs, charges and expenses to which the same may be liable.

**28.** Any party entitled as creditor as aforesaid or otherwise to a share of the estate, may apply to the Court or a Judge thereof, to order the part of the purchase money which he claims to be paid to him, on affidavit showing the amount truly due on each incumbrance (if any), the owner of such incumbrance and his residence, as far as known to such party, and also on proof of the due service of a notice on the petitioners and parties to the proceedings, and on each other incumbrancer or on their Attorneys or agents of the intention to make the application at least fifteen days previous thereto, such service in any case where not made on the Attorney or agent, to be personal, or on a grown up person at his, her or their usual or last known place of abode, if residing in this Province, and if residing out of this Province, sixty days previous thereto, or by previously publishing the notice once a week for two calendar months in any weekly paper published in the county or counties where the estate is situate.

Creditors, etc., may apply for payment from purchase money.

**29.** The real representative shall and may, upon due proofs of identity, and upon the amounts thereof being ascertained and proved as aforesaid, upon the order of the Court or Judge in that behalf granted, pay each creditor as aforesaid from and out of the purchase money, the amount of his, her or their claim, according to the priority thereof respectively, and shall cause the same to be duly discharged of record, first defraying and deducting the expenses and costs out of the moneys payable on the share or shares which were so incumbered; but the proceedings to ascertain the amount of such incumbrances shall not affect or delay the paying over or investing of money to or for any party upon whose estate in the premises there does not appear to be any existing incumbrance.

Real representative may pay creditors by order, etc.

**30.** Whenever the estate of any tenant in dower or of any tenant by the courtesy or for life to the whole or to any part of the estate, has been admitted by the parties or ascertained by the Court or Judge to be existing at the time of the order for such sale, and the person entitled to such estate has been made a party to the proceedings, the Court or Judge shall first determine whether such estate ought to be exempted from the sale or whether the same should be sold; and, in making such determination, regard shall be had to the interests of all the parties; and if a sale be ordered, including such estate, all the estate and interest of every such tenant shall pass thereby; and no conveyance or release to the purchaser shall be required from such tenant; and the said purchaser, his heirs and assigns, shall hold such premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share or to the whole or any part of the premises sold;

Tenancy in dower or by the courtesy.



sold; and the Court or Judge shall direct the payment of such sum in gross out of the purchase money to the person entitled to such dower or estate by the courtesy or for life, as may be deemed upon the principles applicable to life annuities a reasonable satisfaction for such estate.

When married woman a party.

**31.** When any married woman is a party to such proceedings as petitioner, the petition shall be by her and her husband, unless the Court or a Judge shall dispense with the husband's joining; and, in other cases, the service or notice of such petition shall be upon her and her husband, unless service upon the husband be dispensed with by the Court or Judge; and the judgment or decree shall be binding in such case upon her and her husband, and all claiming through her or them; and if her claim be an inchoate right of dower, then, in case of sale, the Court shall determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be paid to her and her husband; and the payment thereof to her or them as aforesaid shall be a valid and effectual bar to any right or claim of dower.

Notice of sale the same as of sheriffs' sales.

**32.** The real representative shall give notice of any sale to be made by him for the same time and in the same manner as is required by law on sales of real estate by Sheriffs on execution; and the terms of such sale shall be set out in such notice and made known at the time of the sale; and, after the completion thereof, he shall report the same in writing to the Court with a description of the different parcels of land sold to each purchaser, and the price at which the same hath been sold; and, at the expiration of fifteen days next after the said sale and the due filing of such report, the sales may be approved and confirmed by the Court or a Judge thereof; and an order shall be made directing the real representative to execute deeds pursuant to such sales; and such deeds so executed shall be recorded in the county where the lands lie in the same manner as other deeds, and shall be a bar both in law and equity against all known parties interested in the premises and against all unknown parties where notice was published as aforesaid, and against all persons claiming under or through them, and also against all incumbrances where the notice hereinbefore mentioned has been given to them, in manner and form aforesaid.

Application of proceeds.

**33.** The proceeds of such sale, after deducting all costs, shall be divided among the parties whose rights and interests have been sold in proportion to their respective rights in the premises; and the shares of such as are of full age shall be paid to them by the real representative, and, in the case of infants, unknown or absent parties, shall be invested for them in the name of the real representative and his successors in office, until by law fully claimed by them or their legal representatives; and the real representative may, in his discretion, require all

or

or any of the parties, before they receive any share of the moneys arising from such sale, to give security to his satisfaction that they will refund the said shares with interest thereon in case it should thereafter appear that such parties were not entitled thereto.

**34.** All securities shall be taken in the name of the real representative in his own name and name of office as Surrogate Judge and real representative for such county, and his successors in office, except when directed to be taken in the name of any known party; and shall be delivered to and kept by the real representative, who shall receive the interest and principal thereon, and shall apply or invest the same as the Court or a Judge thereof may direct, and shall, in the month of January in each year, render to the Court an account in writing under oath of all moneys received by him, and of the application thereof.

How securities taken.

**35.** All investments of moneys received from any sales under the said recited Act, shall be made in Dominion stock, or other public security of the Dominion of Canada or of the Province of Ontario.

How moneys invested.

**36.** The Court or a Judge in chambers shall apportion the costs of the proceedings on the petition, according to the respective shares and interests of the parties known or unknown, and shall direct the same to be paid to the petitioners; and such order shall operate as a judgment for such costs; and, on a copy thereof being filed in the county Registry office where the lands lie, shall be a charge for such proportion against the shares representing such proportion; and execution may issue thereon as in ordinary cases of costs; and such share or interest may be sold thereon, and a valid title on such sale be given to the purchaser thereof, as in the cases of sales by Sheriffs on execution; and, if judgment be rendered against the petitioners for any cause, the Court or Judge aforesaid shall adjudge costs against them, to be recovered as in cases of personal actions.

Apportionment of the costs.

**37.** The proceedings upon petition, if commenced in a County Court, may, at any time before judgment, be removed into either of the Superior Courts of law or equity by *certiorari*, to be allowed by any Judge of such Court, on security being given by the party applying for the *certiorari*, for the costs of the proceedings on petition to the satisfaction of such Judge; and upon any final judgment, decree or order, an appeal may be had by any of the parties interested, in the same manner, and with the same consequences, as in other cases of appeal from the decision of any Court rendering such judgment, decree or order.

Proceedings removable from County Court to Superior Courts.

**38.** When the interests in such estate are equitable fees simple, the Court of Chancery alone shall have the same powers, upon petition or bill filed in that Court, to act thereupon, as are hereby given to the Courts of law and equity in other cases, and

When the interests are equitable fees simple.

and the same notices shall be given, served, published and verified, guardians of minors appointed, and the same rules apply as to parties, and the like proceedings be had as herein-before directed.

Prior investments declared valid.

**39.** All investments, at the time of the passing of this Act, made on mortgage of real estate, and all acts and proceedings heretofore done and performed, by virtue of the said Act, by any real representative, shall be and the same are hereby declared valid and effectual; and the successors in office, or any of them, of any deceased or other real representative, or any real representative for the time being, shall be and are hereby duly empowered, upon payment having been made to any predecessor or himself in full of any sum or sums of money secured by mortgage as aforesaid, by virtue of this or any former partition Act, to any predecessor or deceased predecessor in his lifetime, or to any successor or successors in office as such Surrogate Judge and real representative, or to himself, to execute and grant all necessary releases and discharges of the same in manner and form provided by the Registry Act; and the Judge or Junior Judge of the County Court for the time being shall, in case of the decease or absence of the proper Surrogate Judge, be and he is hereby vested, for the time being, with all the functions, powers and authorities for the county, of the party hereby appointed the real representative, and perform the duties thereof till the appointment of or return of the Surrogate Judge.

Powers of Judge in chambers.

**40.** It is hereby further enacted, that a Judge in chambers shall have equal power and jurisdiction with the full Court, in all proceedings under the said Act, as fully as if specially named therein, except where the word "Court" is in this Act used alone.

When affidavits, etc., to be deposited, etc.

**41.** All affidavits, rules, orders, reports and all other papers and documents which may be filed with any Deputy Clerk of the Crown or Deputy Registrar in Chancery, during the progress of any proceeding under the said Act or this Act, shall be by him immediately thereafter handed over to the Clerk of the Crown or Registrar in Chancery of the Court in which the petition has been filed, as the case may be, to be preserved and safely kept as muniments of title.

An account of unclaimed monies to be published yearly.

**42.** In the month of January in each year the real representative, the Registrar in Chancery, the Clerk of the Crown or officer of any Court having in any case the custody of any moneys, bonds, mortgages, securities or investments, arising from the sales of such estates for the benefit of any unknown, absent, infant or lunatic parties, where no claim has been made on their behalf for any interest or principal of such investments during the preceding year, shall cause to be published in the *Ontario Gazette* and any weekly or daily paper published in the county in which the lands or any part thereof may be situate, or if no such



such paper be published therein, then in the daily or weekly paper published in the next adjoining or nearest county where such paper may be published, weekly for the period of four weeks, a statement of the securities or investments remaining unclaimed, showing the name of the intestate party, the amount unclaimed, and the property from which the claim has arisen; and such statement shall be verified by the real representative, Clerk, Registrar or other officer aforesaid under oath; and a copy thereof shall be filed among the records of the Court.

**43.** In all cases of partition and sale of estates of joint tenants, tenants in common and co-parceners, the Court of Chancery shall also possess the same jurisdiction as, by the laws of England, on the tenth of August, one thousand eight hundred and fifty, were possessed by the Court of Chancery in England. Power of Court of Chancery.

**44.** Any partition or sale made by the Court of Chancery shall be as effectual for the apportioning or conveying away of the estate or interest of any married woman, infant or lunatic, being a party to the proceedings by which the sale or partition has been made or declared, as of any person competent to act for himself; and an office copy of any decree, order or report for a partition or sale shall be sufficient evidence in all Courts of the partition declared thereby, and of the several holdings by the parties of the shares allotted to them. When Acts shall be effectual, etc.

**45.** The Judges of the Superior Courts of Law and the Court of Chancery, respectively, shall make such tariff of fees, rules and orders for the proceedings on petitions at law and in equity as they shall deem expedient and advisable. Rules and orders.

**46.** Chapter eighty-six of the Consolidated Statutes of Upper Canada, entitled *An Act respecting the Partition and Sale of Real Estate*, is hereby repealed: Provided always, that nothing done in accordance therewith shall be affected by this Act, and that all actions now pending under the said repealed Act may be continued under the said repealed Act, as if this Act had not been passed. Chap. 86 Con. Stat. U. C. repealed. Proviso.

## CAP. XXXIV.

### An Act relative to Mining.

[Assented to 23rd January, 1869.]

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Title.

1. This Act may be known and cited as "The General Mining Act of 1869."

The gold and silver mining act of 1868 repealed.

2. The Act known as *The Gold and Silver Mining Act of 1868* is hereby repealed, but the statutes mentioned in the first section of the said Act and thereby repealed, shall continue repealed.

All royalties, etc., imposed by any patent repealed.

3. All royalties, taxes or duties which, by any patent or patents heretofore issued, are reserved, imposed or made payable upon, or in respect of any ores or minerals extracted from the lands granted by such patents, and lying within this Province, are hereby repealed and abandoned; and such lands, ores and minerals shall henceforth be free and exempt from every such royalty, tax or duty.

Reservations of gold and silver mines in any patent already issued rescinded.

4. All reservations of gold and silver mines contained in any patent or patents heretofore issued, granting in fee simple any land or lands situate within this Province, are hereby rescinded and made void, and all such mines in or upon any such lands shall henceforth be deemed to have been granted in fee simple as part of such lands, and to have passed with such lands, to the subsequent and present proprietors or owners thereof in fee simple.

No reservations in patents of mining lands.

5. No reservation or exception of gold, silver, iron, copper or other mines or minerals, shall hereafter be inserted in any patent from the Crown granting any lands in this Province sold as mining lands.

Crown lands may be explored for mines, etc.

6. Any person or persons may explore for mines or minerals on any Crown lands, surveyed or unsurveyed, and not for the time being marked or staked out and occupied as hereinafter mentioned.

Crown lands may be sold as mining lands, etc.

7. Crown lands supposed to contain mines or minerals may be sold as mining lands, or may, when situate within any mining division, be occupied and worked as "mining claims" under miners' licenses, as hereinafter provided.

Mining locations.

8. Such lands so sold, when situate in unsurveyed territory, or in townships surveyed in sections, shall be sold in blocks to be called "mining locations."

Form and size of mining locations.

9. Mining locations under this Act shall conform to the following requirements:—

Territory bordering on lakes Superior and Huron, French River, etc.

(1.) In the unsurveyed territory to the north or north-west of the river Mattawan, lake Nipissing and the French river, and which includes the territory bordering upon lakes Huron and Superior, and the river St. Mary, every regular mining location shall be rectangular in shape, and the bearings of the outlines

lines thereof shall be due north and south and due east and west astronomically; and such location shall be of one of the following dimensions, namely, eighty chains in length by forty chains in width, containing three hundred and twenty acres, or forty chains square, containing one hundred and sixty acres, or forty chains in length by twenty chains in width, containing eighty acres.

(2.) When a mining location in the unsurveyed lands in the territory aforesaid, borders upon a lake or river, a road allowance of one chain in width shall be reserved along the margin of such lake or river; and the width of the location shall front on the said road allowance; and the bearings of the other outlines of the location shall be due north and south, and due east and west astronomically; and such location shall otherwise conform to the requirements of the preceding sub-section as nearly as the nature of the land will admit.

When locations border on lakes and rivers in said territory.

(3.) In the townships in the said territory surveyed, or hereafter to be surveyed in sections, every mining location, after such survey, shall consist of a half section, a quarter section, or an eighth of a section.

When in townships in said territory surveyed in sections.

(4.) In all patents for such mining locations in the territory aforesaid, there shall be a reservation for roads of five per centum of the quantity of land professed to be granted.

Reservation for roads.

(5.) In the unsurveyed lands not situate within the limits of the territory aforesaid, mining locations shall be as may be defined by any order in council hereafter to be made.

Locations in other unsurveyed territory.

**10.** Mining locations in unsurveyed territory shall be surveyed by a Provincial land surveyor, and be connected with some known point in previous surveys, or with some other known point or boundary, (so that the tract may be laid down on the office maps of the territory in the Crown Lands Department,) at the cost of the applicants, who shall be required to furnish, with their application, the surveyor's plan, field notes and description thereof, showing a survey in accordance with this Act, and to the satisfaction of the Commissioner of Crown Lands.

How mining locations in unsurveyed territory to be surveyed.

**11.** The price of all Crown lands to be sold as mining locations in the said territory, mentioned in sub-section one of the ninth section of this Act, shall be one dollar per acre.

Price of location.

**12.** The patents for all Crown lands, hereafter to be sold as mining lands, shall contain a reservation of all pine trees standing, or being on said lands, which pine trees shall continue the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may, at all times, during the continuance of such license, enter upon such

Pine trees reserved.



Patentees may use timber for building, fencing, etc., on the land.

Timber cut to be subject to dues.

such lands, and cut and remove such trees, and make all necessary roads for that purpose; but the patentees, or those claiming under them, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so patented, or for any other purpose essential to the working of the mines thereon; and may also cut and dispose of all trees required to be removed in actually clearing the said land for cultivation; but no pine trees (except for the said necessary building, fencing and fuel, or other purpose essential to the working of the mine,) shall be cut beyond the limit of such actual clearing; and all pine trees so cut and disposed of (except for the said necessary building, fencing and fuel, or other purpose aforesaid,) shall be subject to the payment of the same dues, as are at the time payable by the holders of licenses to cut timber or saw logs.

Mining divisions, how to be declared.

**13.** The Lieutenant Governor in Council, may, from time to time, by an order in council, declare such tract of country as may be described in and by such order in council a "mining division;" and by any other subsequent order or orders in council may, from time to time, extend, add to or diminish the limits of such division, or may otherwise amend, or may cancel such order in council; and, from and after the publication in the *Ontario Gazette* of any such order in council, the mining division therein mentioned and described, and all mines on Crown lands situate in such division, shall be subject to the provisions of this Act, and to any regulations to be made under this Act.

Appointment and powers of officers of mining divisions.

**14.** The Lieutenant Governor may appoint, for each mining division, or for any part thereof, an Inspector, who shall be under the direction of the Commissioner of Crown Lands, and, by order in council, may prescribe the duties and fix the salary of such Inspector; and every such Inspector shall be *ex officio* a Justice of the Peace of the county or united counties, district or districts, which a mining division may comprehend or include, in whole or in part, or in which, or in any portion of which, a mining division may lie; and it shall not be necessary that any such Inspector shall possess any property qualification whatever in order to enable him lawfully to act as such Justice of the Peace; and every such Inspector shall have jurisdiction as a Justice of the Peace over all the territory comprised within the division for which he may be appointed, and shall have power to settle summarily all disputes between licensees as to the existence or forfeitures of mining claims, and the extent and boundary thereof, and as to the use of water and access thereto, and generally, to settle all difficulties, matters or questions between licensees which may arise under this Act; and the decision of any such Inspector, in all cases under this Act, shall be final, except when otherwise provided by this Act, or when another tribunal is appointed under the authority of this Act;

Act; and no case under this Act shall be removed into any court by writ of *certiorari*.

**15.** The Inspector of any mining division may, on payment to him of a fee of five dollars, grant to the party applying for the same, a license to be called a "Miner's License," which may be in the following form:—

PROVINCE OF ONTARIO.

No. (Name of division.) Mining Division. \$5. Form thereof.  
(Date.) 18 ,

Miner's License.—Not Transferable.

Issued to A. B., under the provisions of "The General Mining Act of 1869," to be in force for one year from the date hereof.

C. D. Inspector of  
Mining Division.

**16.** Such miner's license shall be in force for one year from the date thereof, and shall not be transferable; and only one person shall be named therein, who shall be called the licensee, and who, before the expiration of the said license, or within not later than ten clear days thereafter, shall have the right to a renewal of the said license, by the Inspector for the division, on payment to him of the like fee of five dollars, or such other sum as shall then be the fee fixed by law for miners' licenses.

**17.** A miner's license shall authorize the licensee personally, and not through another or others, to mine during one year from the date of such license, and from the date of any renewal thereof, on any mining claim marked or staked out by such licensee on Crown Lands, as hereinafter provided; but any person or persons not occupying any other mining claim, may be employed by such licensee to assist him in working such claim.

**18.** Such licensee shall have the right to mark or stake out within the division mentioned in his license, a mining claim on any Crown Lands (not for the time being included in any mining claim occupied by any other licensee,) by planting a wooden or iron picket at each of the four corners thereof, or otherwise marking the same as may be directed by any order in council, and to work the same.

**19.** Each mining claim shall be of the following dimensions, namely:—

(1.) For any one person, two hundred feet along a vein or lode, by one hundred feet on each side thereof, measuring from the centre of the vein or lode.

(2.)

- (2.) Companies of two or more persons, who each hold a miner's license, may stake out and work additional feet along a vein or lode by the above width in the proportion of one hundred additional feet in length for every additional miner, not to exceed one thousand feet in length altogether, and work the claim jointly.

Rules as to  
laying out  
claims.

**20.** Mining claims shall be laid out, as far as possible, uniformly, and in quadrilateral and rectangular shapes; and the measurements of all such claims shall be horizontal; and the ground included in every such claim shall be deemed to be bounded under the surface by lines vertical to the horizon; except that every mining claim shall include and shall authorize the licensee to work every dip, spur and angle of the vein or lode laterally to the depth to which the same can be worked, with all the earth and minerals therein.

Forfeiture of  
claims for  
want of notice  
thereof,

**21.** Every Inspector, appointed under this Act, shall keep a book for the recording therein of all mining claims, which book shall be open to inspection by any person on payment of a fee of twenty cents; and every licensee who has marked or staked out any mining claim under this Act, shall, within thirty days thereafter, give a notice thereof in writing to the Inspector of the division, stating the name of such licensee, and indicating, by some general statement therein, the locality of such mining claim, and showing how and when the same was marked or staked out; and the Inspector shall thereupon forthwith record the particulars of such notice in such book; and, if such licensee fail to give such notice within the time aforesaid, the mining claim so marked or staked out shall be deemed to be forfeited and abandoned, and all right of the licensee therein to cease.

and for allow-  
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remain un-  
worked.

**22.** A mining claim shall also be deemed to be forfeited and abandoned, and all right of the licensee therein to cease, in case such mining claim shall remain unworked for the space of three months after the same shall have been first marked or staked out as aforesaid, or if the same shall at any time, after the expiration of the said three months, remain unworked for the space of fifteen days: Provided, however that, in case it be shown to the satisfaction of the Inspector of the division, either before the expiration of the respective periods aforesaid, or within fifteen days thereafter, that the non-working of any such claim arose from the illness of the licensee, or other reasonable cause satisfactory to the said Inspector, he may extend the time during which such mining claim may remain unworked for such further period of time as he may think reasonable, and may, in like manner, thereafter for reasonable cause established to his satisfaction, grant further extensions of the time during which the said claim may remain unworked without being liable to forfeiture; and the said Inspector shall forthwith enter in the said book all such enlargements or extensions of the time granted by him.

**Proviso.**



**23.** No mining claim within any division shall be considered Exception. unworked, within the meaning of the last section, during the time that any order in council shall direct that work on mining claims within such mining division may be suspended.

**24.** No person shall occupy at the same time more than one No person to occupy more than one claim at one time, except, etc. mining claim on Crown Lands, except in the cases hereinafter provided for of registration of claims rendered temporarily unworkable.

**25.** Every licensee shall be held and required to produce License to be exhibited to officer on demand. and exhibit his license to the Inspector for the division, and to prove, to the satisfaction of the Inspector, that such license is in force, whenever required to do so by him.

**26.** The discoverer of any new mine shall be entitled to two Right of discoverer of new mine. mining claims of the area prescribed by sub-section one of section nineteen of this Act.

**27.** No person shall be considered the discoverer of a new What deemed a discovery. mine, unless the place of the alleged discovery shall be distant, if on a known vein or lode, at least three miles from the nearest known mine on the same vein or lode.

**28.** A party wall of at least three feet thick shall be left Party walls to be left between claims, and kept clear. between each mining claim on Crown lands, which said party wall shall be used in common by all parties as a mode of access to the stream, where one exists; and such party wall shall not be obstructed by any person or persons throwing soil, stone or other material thereon; and every person or persons so obstructing such party wall, shall be liable to a fine of not more than five dollars and costs; and, in default of payment of such fine and Penalty. costs, to be imprisoned for any period not more than one month.

**29.** If at any time it shall be found necessary or expedient Party removing party wall to construct new mode of access to water. to remove a party wall as aforesaid, the party so removing it shall, if required so to do, construct a new mode of access to the water in no wise more difficult as an approach than the one destroyed by the removal of the party wall, under a like penalty, as provided in the next preceding section; and, in case of a removal of a party wall, the minerals found therein shall belong Removal of wall. to the owners of the adjoining claims, each of whom shall own the half next to his claim.

**30.** No person mining upon any Crown lands shall cause Crown lands licensees not to damage other claims. any damage or injury to the holder of any other claim than his own, by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing any water which may be pumped or bailed or may flow from his own claim to flow into or upon such other claim, under a penalty of not more than five dollars, and costs; and, in default of payment of Penalty. such

such fine and costs, he may be imprisoned for any period not more than one month.

Provision for registration of claim rendered unworkable for a time.

**31.** In case any mining claim on Crown lands, occupied by any licensee, cannot be worked in consequence of an excess of water or other unavoidable cause, established to the satisfaction of the Inspector for the division, such Inspector shall, on the application of such licensee, and on receipt of one dollar, make an entry in the book, to be kept by him as aforesaid, of the cause or reason for such claim not being worked; and thereupon and upon the licensee planting a wooden or iron picket as near the centre of such claim as possible, upon which is cut or painted his name or initial letters of his name, such licensee may occupy and work another mining claim; but, in case such licensee do not return and occupy such first mentioned claim within fifteen days after the adjacent or surrounding claim or claims have been shown to be workable, he shall forfeit all right and title to the said claim.

Penalty for removing picket.

**32.** Any person found removing or disturbing, with intent to remove, any stake, picket or other mark placed under the provisions of this Act, shall forfeit and pay a sum not exceeding twenty dollars and costs; and, in default of payment of such fine and costs, may be imprisoned for any period not exceeding one month.

Appointment of constables in gold mining divisions.

**33.** Each Inspector appointed in and for a mining division under this Act, may appoint any number of constables not exceeding four; and the persons so, from time to time, appointed, shall be and they are hereby constituted, respectively, constables and peace officers for the purpose of this Act, for and during the terms, and within the mining divisions for which they may be appointed respectively.

Act respecting riots near public works to be in force in gold mining divisions.

**34.** The Lieutenant Governor in Council may, as often as occasion requires, declare by proclamation that he deems it necessary that the *Act Respecting Riots near Public Works*, being chapter twenty-nine of the Consolidated Statutes of Canada, should, so far as the provisions therein are applicable, be in force within any mining division or divisions; and upon, from and after the day to be named in any such proclamation, the second, third, fourth, fifth, sixth, seventh, ninth, tenth, eleventh, twelfth and eighteenth sections of the said Act shall, so far as the provisions thereof can be applied therein, take effect within the mining division or mining divisions designated in such proclamation; and the provisions of the said Act shall apply to all persons employed in any mine, or in mining within the limits of such mining division or divisions, as fully and effectually, to all intents and purposes, as if the persons so employed had been specially mentioned and referred to in the said Act; and the word "Governor" in the said third section of the said Act shall be held to mean the "Lieutenant Governor" of this Province.

2. The Lieutenant Governor in Council may, in like manner, Governor may declare it not in force, etc. from time to time, declare the said Act to be no longer in force in such mining division or divisions; but this shall not prevent the Lieutenant Governor in Council from again declaring the same to be in force in any such mining division or mining divisions; and no such proclamation shall have effect within Exception. the limits of any city.

35. The Lieutenant Governor in Council may, from time to time, make all and every such regulation and regulations as he may deem necessary or expedient, for the appointment of arbitrators or mining boards to hear and determine appeals from the decisions of Inspectors of divisions; for the prescribing, defining and establishing the powers, duties and mode of procedure of such arbitrators or mining boards; for the opening, construction, maintenance and using of roads through or over any mining claims, mining locations or lands hereafter sold as mining lands, and for the opening, construction, maintenance and using of ditches, aqueducts or raceways through or over any such claims, locations or lands for the conveyance and passage of water for mining purposes; and generally for the purpose of carrying out this Act; and such regulations, after publication in the *Ontario Gazette*, shall have the force and effect of law. Governor in council may make regulations for certain purposes, which shall have force of law.

36. Every person contravening this Act, or any rule or regulation made under it, in any case where no other penalty or punishment is imposed, shall, for every day on which such contravention occurs, or continues or is repeated, incur a fine of Penalty for contravening this Act, when no other is provided. not more than twenty dollars and costs; and, in default of payment of such fine and costs, he may be imprisoned for a term of not more than one month.

37. Any Inspector for a mining division may convict upon view of any of the offences punishable under the provisions of this Act, or regulations made under it. Inspector may convict on view.

38. The contravention on any day of any of the provisions of this Act, or of any regulation made under it, shall constitute a separate offence and may be punished accordingly. Separate offence on each day.

39. All fees, penalties and fines received under this Act, and the costs of all such convictions as shall take place before any Inspector or magistrate appointed under this Act, shall form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly; and the expenses of carrying this Act into effect, in any mining division or mining divisions, shall be paid by the Lieutenant Governor out of the said Consolidated Revenue Fund. Application of fees, fines, and penalties.

40. The Inspector of any mining division, or any two Justices of the Peace, having jurisdiction in the locality, may try Inspector or justices may and



try offences,  
as under Con.  
Stat. Can.  
chap. 103.

and summarily convict any person guilty of any offence under this Act, or of any breach of any of the provisions thereof, to which any fine or penalty, or forfeiture of any sum of money is attached, and shall have all the powers of Justices of the Peace under chapter one hundred and three of the Consolidated Statutes of Canada; but this section shall not be construed to give jurisdiction to try or summarily convict for any breach of the provisions of the fourth section of this Act.

Inspector to  
have no inter-  
est in mining  
claims, etc.

**41.** No Inspector, appointed under this Act, shall, either directly or indirectly, while he is such Inspector, purchase or be or become proprietor of, or become interested in, any Crown Lands or any mining claim within the division for which he is Inspector; and any such purchase or interest shall be void; and, if any such Inspector offends in the premises, he shall forfeit his office, and the sum of five hundred dollars for every such offence, to be recovered in an action by any person who may sue for the same.

Penalty.

Interpreta-  
tion clause.

**42.** In the construction and for the purposes of this Act, and of all orders in council, or regulations under it, if not inconsistent with the context or subject matter, the following terms shall have the respective meanings hereby assigned to them, that is to say:—

“Mine” and  
“mining.”

(1.) The verb “mine” and the participle “mining,” shall be held to mean and include any mode or method of working whatsoever, whereby the soil or earth, or any rock, stone or quartz may be disturbed, removed, carted, carried, washed, sifted, smelted, refined, crushed or otherwise dealt with for the purpose of obtaining any metal or metals therefrom, whether the same may have been previously disturbed or not.

“Mines.”

(2.) The word “mines” shall be held to mean and include all rocks, soils or strata containing any metal or metals, and all places where the work of mining as above defined may be carried on.

“Mining div-  
ision.”

(3.) The words “mining division” shall be held to mean and include any tract of country declared to be a mining division within this Act.

“Crown  
lands.”

(4.) The words “Crown Lands” shall be held to mean and include all Crown Lands, school lands or clergy lands, not in the actual use or occupation of the Crown, or of any public department of the Government of the Dominion of Canada or of this Province, or of any officer or servant thereof, and not under lease or license of occupation from the Crown or the Commissioner of Crown Lands, and as to which no adverse claim exists, which shall be subsequently recognized by the Commissioner of Crown Lands.

(5.) The word "party-wall" shall be held to mean a bank "Party wall." of earth or rock left between two excavations.

43. This Act shall take effect on and from the second day of April next, and not sooner, except the second section, which shall take effect immediately on the passing hereof. When Act to come into force.

## CAP. XXXV.

### An Act respecting Lands sold for Arrears of Taxes.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. No proceeding shall be had or taken in any suit or action now pending in any Court of law or equity, nor shall any suit or action be brought or prosecuted in any such Court in which any sale of lands for arrears of taxes, or the title derived, or claimed to be derived, from or through such sale, shall or may be impeached, invalidated, or brought in question, until after the end of the next ensuing session of the Legislature of this Province; but no action or remedy of any party, for or in respect to any such lands, not now barred by the statutes of limitation, shall be held to be barred by the said statutes until after the expiration of three months next after the end of the said next ensuing session: Provided that, notwithstanding anything herein contained, any party interested, or claiming to be interested, in any such lands, may, in the meantime, apply to the Court of Chancery, or a Judge in chambers, to restrain the commission of waste or injury thereto. Actions and proceedings impeaching sales for taxes stayed, etc.

2. All rights, titles, liens and claims that may or shall have been acquired, or may be claimed to have been acquired, in or to any such lands, by deed, devise or otherwise howsoever, from the first day of January, one thousand eight hundred and sixty-nine, to the end of the said next ensuing session of the Legislature inclusive, shall be subject to all such relief remedies and enactments as shall be made or provided by the said Legislature during the next ensuing session thereof; but nothing herein contained shall be held or construed to affect official sales of lands for arrears of taxes in the mean time by the proper officers to whose duty such sales appertain by law. Rights acquired in meantime subject to future legislation.

## CAP. XXXVI.

An Act to Amend and Consolidate the Law respecting  
the Assessment of Property in the Province of  
Ontario.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows :—

## PRELIMINARY PROVISIONS.

Title. **1.** This Act may be cited as "The Assessment Act of 1869."

Interpretation  
clause.

**2.** In this Act the words "the Province" or "this Province" mean the "Province of Ontario;" the word "*Gazette*" means Official *Gazette* of the Province of Ontario; the word "county" includes a union of counties, and the word "township" a union of townships, while such union continues; the words "county council" include provisional county council; the words "town and village" mean respectively incorporated town and village; the word "ward," unless so expressed, does not apply to a township ward; the words "municipality or local municipality" do not include a county, unless there is something in the subject or context requiring a different construction.

Meaning of  
words,  
"lands," etc.;

**3.** The terms "land," "real property," and "real estate," respectively, include all buildings or other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the realty, and all trees or underwood growing upon the land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to Her Majesty.

of "personal  
property," etc.;

**4.** The terms "personal estate," and "personal property," include all goods, chattels, shares in incorporated companies, interest on mortgages, dividends from bank stock, money, notes, accounts and debts at their actual value, income and all other property, except land and real estate, and real property as above defined, and except property herein expressly exempted.

of "property."

**5.** The term "property," includes both real and personal property as above defined.

Unoccupied  
lands to be  
called "lands  
of non-resi-  
dents," except,  
etc.

**6.** Unoccupied land shall be denominated "lands of non-residents," unless the owner thereof has a legal domicile or place of business in the local municipality where the same is situate, or gives notice in writing, setting forth his full name, place of residence and post office address to the Clerk of the



the municipality, on or before the thirtieth day of January in each year, that he owns such land, describing it, and requires his name to be entered on the assessment roll therefor, which notice may be in the form and to the effect of schedule A to this Act; and the Clerk of the municipality shall, on or before the first day of February in each year, make up and deliver to the Assessor or Assessors a list of the persons requiring their names to be entered on the roll, and the lands owned by them.

7. The real estate of all Railway Companies is to be considered as lands of residents, although the company may not have an office in the municipality; except in cases where a company ceases to exercise its corporate powers, through insolvency or other cause.

The real estate of Railway Companies, etc.

#### PROPERTY LIABLE TO TAXATION.

8. All municipal, local or direct taxes or rates, shall, when no other express provision has been made in this respect, be levied equally upon the whole rateable property, real and personal, of the municipality or other locality, according to the assessed value of such property, and not upon any one or more kinds of property in particular, or in different proportions.

All taxes to be levied equally upon the rateable property, when no other provision made.

9. All land and personal property in the Province of Ontario shall be liable to taxation, subject to the following exemptions, that is to say :—

What property liable to taxation.

#### *Exemptions.*

(1.) All property vested in or held by Her Majesty, or vested in any public body or body corporate, officer or person in trust for Her Majesty, or for the public uses of the Province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust for or for the use of any tribe or body of Indians, and either unoccupied, or occupied by some person in an official capacity.

All property belonging to Her Majesty.

Indian lands unoccupied, or occupied officially.

(2.) When any property mentioned in the preceding clause number one, is occupied by any person otherwise than in an official capacity, the occupant shall be assessed in respect thereof, but the property itself shall not be liable.

But if occupied not officially.

(3.) Every place of worship, and land used in connection therewith, church yard or burying ground.

Places of worship, etc.

(4.) The buildings and grounds of and attached to every University, College, incorporated Grammar School, or other incorporated Seminary of learning, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, or if unoccupied, but not if otherwise occupied.

Public educational institutions.

(5.)

School houses,  
city halls, etc.

(5.) Every Public School House, Town or City or Township Hall, Court House, Gaol, House of Correction, Lock-up House and Public Hospital, with the land attached thereto, and the personal property belonging to each of them.

Public roads,  
etc.

(6.) Every public road and way, or public square.

Municipal  
property.

(7.) The property belonging to any county or local municipality, whether occupied for the purposes thereof or unoccupied; but not when occupied by any person as tenant or lessee, or otherwise than as a servant or officer of the corporation for the purposes thereof.

Provincial  
Penitentiary.

(8.) The Provincial Penitentiary and the land attached thereto

Poor houses,  
etc.

(9.) Every Industrial Farm, Poor House, Alms House, Orphan Asylum, House of Industry and Lunatic Asylum, and every house belonging to a company for the reformation of offenders, and the real and personal property belonging to or connected with the same.

Scientific in-  
stitutions, etc.

(10.) The property of every Public Library, Mechanics' Institute and other public, literary or scientific institution, and of every Agricultural or Horticultural Society, if actually occupied by such society.

Personal prop-  
erty of Gover-  
nors.

(11.) The personal property and official income of the Governor General of the Dominion of Canada, and the official income of the Lieutenant Governor of the Province.

Imperial Mil-  
itary or Naval  
pay, salaries,  
pensions, etc.

(12.) The houses and premises occupied by any of the Officers, Non-commissioned Officers and Privates of Her Majesty's Regular Army or Navy in actual service, and the full or half-pay of any one in any one or either of such services; and any pension, salary, gratuity or stipend derived by any person from Her Majesty's Imperial treasury, or elsewhere out of this Province, and the personal property of any person in such Naval or Military services on full pay, or otherwise in actual service.

Pensions  
under \$200.

(13.) All pensions of two hundred dollars a year and under, payable out of the public moneys of the Dominion of Canada, or of the Province.

Incomes of  
farmers.

(14.) The income of a farmer derived from his farm.

Personal prop-  
erty secured  
by mortgage,  
or Provincial  
or municipal  
debentures.

(15.) So much of the personal property of any person as is invested in mortgage upon land or is due to him on account of the sale of land, the fee or freehold of which is vested in him, or is invested in the debentures of the Province, or of any municipal corporation thereof, and such debentures.

Bank stock.

(16.) The stock held by any person in any chartered bank, so long

long as there is a special tax on bank issues, but not the dividends thereof.

(17.) The stock held by any person in any Railroad Company. Railroad stock.

(18.) All property, real or personal, which is owned out of this Province. Property owned out of the Province.

(19.) So much of the personal property of any person, as is equal to the just debts owed by him on account of such property, except such debts as are secured by mortgage upon his real estate, or may be unpaid on account of the purchase money therefor. Personal property equal to debts due. †

(20.) The net personal property of any person: Provided the same be under one hundred dollars in value. Personalty under \$100.

(21.) The annual income of any person: Provided the same does not exceed four hundred dollars. Income under \$400.

(22.) The stipend or salary of any minister of religion, and the parsonage or dwelling house occupied by him, with the lands thereto attached. Ministers' salaries.

(23.) Rental or other income derived from real estate, except interest on mortgages. Rental of real estate, etc.

(24.) Household effects of whatever kind, books and wearing apparel. Household effects, books, etc.

(25.) The annual official salaries of the officers and servants of the several departments of the Executive Government, and of the Senate and House of Commons, resident at the Seat of Government at Ottawa, and of the officers and servants of the several departments of the Government of Ontario, resident at Toronto. Salaries of officials of departments at Ottawa and Toronto.

#### HOW RATES TO BE ESTIMATED.

**10.** In counties and local municipalities, the rates shall be calculated at so much in the dollar upon the actual value of all the real and personal property liable to assessment therein. How rates to be calculated.

**11.** All debentures issued before the first day of January, in the year of our Lord one thousand eight hundred and sixty-seven, by municipal corporations under any by-law, and based upon the yearly value of rateable property, at the time of passing such by-law, shall hold the order of priority which they occupied on the said first day of January, one thousand eight hundred and sixty-seven; and each municipal corporation (having so issued debentures) shall levy a rate on the actual real value of the rateable property within the municipality represented, sufficient to produce a sum equal to that leviable or produced on the Priority of existing debentures.  
How rates for paying them to be calculated.  
the



To be applied solely to such purposes.

the yearly value of such property as established by the assessment roll for the year one thousand eight hundred and sixty-six; and such rates shall be applied solely to the payment of such debentures, or interest on such debentures, according to the terms of the by-law under which they were issued.

Rate for sinking funds.

2. In cases where a sinking fund is required to be provided, either by the investment of a specific rate or amount, or on a rate on the increase in value over a certain sum, then such a rate shall be levied as shall at least equal the sum originally intended to be set apart.

Rate of  $\frac{1}{2}$  cent per \$, for paying debt to Consolidated Municipal Loan Fund.

12. In order to comply with the provisions of the Consolidated Municipal Loan Fund Act (Consolidated Statutes of Canada, chapter eighty-three,) a rate of not less than one-third of a cent in the dollar upon the actual value of all rateable property, shall be levied by all municipalities indebted to the Municipal Loan Fund, unless a smaller rate would produce eight per centum upon the capital of the loan: Provided always, that if such rate of one-third of a cent in the dollar upon the actual value of rateable property, according to the assessment of any year, shall produce a less sum than five cents in the dollar, on the annual value of the property in the year one thousand eight hundred and fifty-eight, such a rate shall be levied as will produce a sum equal to that produced by a rate of five cents in the dollar on the assessment rolls of the year one thousand eight hundred and fifty-eight.

Proviso.

Estimates to be made early.

13. The council of every county or local municipality shall every year make estimates of all sums which may be required for the lawful purposes of the county, or local municipality, for the year in which such sums are required to be levied, each municipality making due allowance for the cost of collection, and of the abatement and losses which may occur in the collection of the tax, and for taxes on the lands of non-residents which may not be collected.

By-laws for raising money by rate.

14. The council of every municipality may pass one by-law, or several by-laws, authorizing the levying and collecting of a rate or rates of so much in the dollar, upon the assessed value of the property therein as the council deems sufficient to raise the sums required on such estimates.

If the amount collected falls short.

15. If the amount collected falls short of the sums required, the council may direct the deficiency to be made up from any unappropriated fund belonging to the municipality.

Estimates may be reduced proportionably.

16. If there be no unappropriated fund, the deficiency may be equally deducted from the sums estimated as required, or from any one or more of them.

When sums

17. If the sums collected exceed the estimates, the balance shall

shall form part of the general fund of the municipality, and be at the disposal of the council, unless otherwise specially appropriated; but if any portion of the amount in excess has been collected on account of a special tax upon any particular locality, the amount in excess, collected on account of such special tax, shall be appropriated to the special local object.

collected exceed estimate, appropriation of the balance.

18. The taxes or rates imposed or levied for any year shall be considered to have been imposed, and to be due on and from the first day of January of the then current year, and end with the thirty-first day of December thereof, unless otherwise expressly provided for by the enactment or by-law under which the same are directed to be levied.

Yearly taxes to be computed from 1st Jan., unless otherwise ordered.

APPOINTMENT OF ASSESSORS AND COLLECTORS.

19. The council of every municipality, except counties, shall appoint such number of Assessors and Collectors for the municipality as they may deem necessary;

Assessors and collectors to be appointed.

20. And they may appoint to each Assessor and Collector the assessment district or districts therein, within which he shall act, and may prescribe regulations for governing them in the performance of their duties.

Municipality may be divided into assessment districts.

DUTIES OF ASSESSORS.

21. The Assessor or Assessors shall prepare an assessment roll in which, after diligent enquiry, he or they shall set down according to the best information to be had—

Assessment rolls, their form, contents, etc.

(1.) The names and surnames in full, if the same can be ascertained, of all taxable persons resident in the municipality who have taxable property therein, or in the district for which the Assessor has been appointed;

Of residents.

(2.) And of all non-resident owners who shall have given the notice in writing mentioned in section six and required their names to be entered in the roll.

Of non-residents.

(3.) The description and extent or amount of property assessable against each;

Property assessable.

(4.) And such particulars in separate columns as follows:—

Further particulars.

Column 1.—The successive number on the roll.

Column 2.—Name of taxable party.

Column 3.—Occupation.

Column 4.—To state whether the party is a Householder, Freeholder or Tenant by affixing the letter "F" "H," or "T," as the case may be.

Column 5.—The age of the assessed party.

Column

Column 6.—Name and address of the owner, where the party named in column two is not the owner.

Column 7.—School section.

Column 8.—Number of concession, name of street or other designation of the local division in which the real property lies.

Column 9.—Number of lot, house, etc., in such division.

Column 10.—Number of acres, or other measure shewing the extent of the property.

Column 11.—Number of acres cleared.

Column 12.—Value of each parcel of real property.

Column 13.—Total value of real property.

Column 14.—Value of personal property other than income.

Column 15.—Taxable income.

Column 16.—Total value of personal property and taxable income.

Column 17.—Total value of real and personal property and taxable income.

Column 18.—Statute labor, persons from twenty-one to sixty years of age, and number of days' labor.

Column 19.—Dog tax; number of dogs and number of bitches.

Column 20.—Number of persons in the family of each person rated as a resident.

Column 21.—Religion.

Column 22.—Number of cattle.

Column 23.—Number of sheep.

Column 24.—Number of hogs.

Column 25.—Number of horses.

Column 26.—Date of delivery of notice under section forty-eight.

Land to be assessed in the municipality or ward.

Personal property.

When land to be assessed in owner's name.

When land not occupied by the owner, but owner is known.

**22.** Land shall be assessed in the municipality in which the same lies, and, in the case of cities and towns, in the ward in which the property lies; and this shall include the land of incorporated companies, as well as other property; and when any business is carried on by a person in a municipality in which he does not reside, or in two or more municipalities, the personal property belonging to such person shall be assessed in the municipality in which such personal property is situated, and against the person in possession or charge thereof, as well as against the owner.

**23.** Land occupied by the owner shall be assessed in his name.

**24.** As to land not occupied by the owner, but of which the owner is known, and who, at the time of the assessment being made, resides or has a legal domicile or place of business in the municipality, or who has given the notice mentioned in section six, the same shall be assessed against such owner alone, if the land is unoccupied, or against the owner and occupant, if such occupant be any other person than the owner.

**25.**



**25.** If the owner of the land be not resident, then, if the land is occupied, it shall be assessed in the name of and against the occupant and owner ; but if the land be not occupied, and the owner has not requested to be assessed therefor, then it shall be assessed as land of a non-resident.

When owner non-resident and unknown.

**26.** When land is assessed against both the owner and occupant, or owner and tenant, the Assessor shall place both names within brackets on the roll, and shall write opposite the name of the owner the letter "F," and opposite the name of the occupant or tenant the letter "H" or "T;" and both names shall be numbered on the roll: Provided always, that no ratepayer shall be counted more than once in returns and lists required by law for municipal purposes; and the taxes may be recovered from either, or from any future owner or occupant, saving his recourse against any other person.

Effect of land being assessed against owner and occupant.

Proviso.

**27.** When the land is owned or occupied by more persons than one, and all their names are given to the Assessor, they shall be assessed therefor in the proportions belonging respectively to each; and if a portion of the land so situated is owned by parties who are non-resident, and who have not required their names to be entered on the roll, the whole of the property shall be assessed in the names given to the Assessor, saving the recourse of the persons whose names are so given against the others.

When land occupied by more owners than one.

**28.** Any occupant may deduct from his rent any taxes paid by him, if the same could also have been recovered from the owner, or previous occupant, unless there be a special agreement between the occupant and the owner to the contrary.

When tenants may deduct taxes from rent.

**29.** The Assessor shall write opposite the name of any non-resident freeholder, who requires his name to be entered on the roll, as hereinbefore provided, in the column number three, the letters "N. R.," and the address of such freeholder.

Assessor to note non-residents, if required, on the roll.

**30.** Real and personal property shall be estimated at their actual cash value, as they would be appraised in payment of a just debt from a solvent debtor.

How property estimated.

**31.** In assessing vacant ground, or ground used as a farm, garden, or nursery, and not in immediate demand for building purposes, in cities, towns, or villages, whether incorporated or not, the value of such vacant or other ground shall be that at which sales of it can be freely made, and where no sales can be reasonably expected during the current year, the Assessors shall value such land as though it was held for farming or gardening purposes, with such per centage added thereto, as the situation of the land may reasonably call for; and such vacant land, though surveyed into building lots, if unsold as such, may be entered on the assessment roll as so many acres of the original

What shall be deemed vacant land, and how its value shall be calculated in cities, etc.

Proviso.

original block or lot, describing the same by the description of the block or by the number of the lot and concession of the township in which the same may have been situated, as the case may be: Provided that, in such case, the number and description of each lot, comprising each such block, shall be inserted on the assessment roll; and each lot shall be liable for a proportionate share as to value, and the amount of the taxes, if the property is sold for arrears of taxes.

When not held for sale, but for gardens, etc.

**32.** When ground is not held for the purposes of sale, but *bona fide* inclosed and used in connection with a residence or building as a paddock, park, lawn, garden or pleasure ground, it shall be assessed therewith, at a valuation, which, at six per centum, would yield a sum equal to the annual rental, which, in the judgment of the Assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages.

Railway companies to furnish certain statements to clerks of municipalities.

**33.** Every Railway Company shall annually transmit, on or before the first day of February, to the Clerk of every municipality in which any part of the roadway or other real property of the company is situated, a statement showing, first, the quantity of land occupied by the roadway, and the actual value thereof, according to the average value of land in the locality, as rated on the assessment roll of the previous year; secondly, the real property, other than the roadway in actual use and occupation by the company, and its value; and thirdly, the vacant land not in actual use by the company, and the value thereof, as if held for farming or gardening purposes; and the Clerk of the municipality shall communicate such statement to the Assessor, who shall deliver at, or transmit by post, to any station or office of the company a notice addressed to the company of the total amount at which he has assessed the real property of the company in his municipality or ward, shewing the amount for each description of property mentioned in the above statement of the company; and such statement and notice respectively shall be held to be the statement and notice required by the forty-fifth and forty-eighth sections of this Act.

Duties of clerks therewith.

#### NON-RESIDENT LANDS.

Proceedings in case of non-resident lands.

**34.** As regards the lands of non-residents who have not required their names to be entered on the roll, the Assessors shall proceed as follows:—

To be inserted in roll separately.

(1.) They shall insert such land in the roll separated from the other assessments, and shall head the same as “non-residents’ land assessments.”

When not known to be subdivided into lots.

(2.) If the land be not known to be subdivided into lots, it shall be designated by its boundaries or other intelligible description.

(3.)

(3.) If it be known to be subdivided into lots, or be part of a tract known to be so subdivided, the Assessors shall designate the whole tract in the manner prescribed with regard to undivided tracts; and, if they can obtain correct information of the subdivisions, they shall put down in the roll, and in a first column, all the unoccupied lots by their numbers and names alone, and without the names of the owners, beginning at the lowest number and proceeding in numerical order to the highest; in a second column and opposite to the number of each lot they shall set down the quantity of land therein liable to taxation; in a third column, and opposite to the quantity, they shall set down the value of such quantity, and, if such quantity be a full lot, it shall be sufficiently designated as such by its name or number, but if it be part of a lot, the part shall be designated in some other way whereby it may be known.

When known to be subdivided into lots.

#### MANNER OF ASSESSING PERSONAL PROPERTY.

**35.** No person deriving an income exceeding four hundred dollars per annum from any trade, calling, office, profession or other source whatsoever, not declared exempt by this Act, shall be assessed for a less sum as the amount of his net personal property than the amount of such income during the year then last past, in excess of the said sum of four hundred dollars, but no deduction shall be made from the gross amount of such income, by reason of any indebtedness, save such as shall equal the annual interest thereof; and such last year's income, in excess of the said sum of four hundred dollars, shall be held to be his net personal property, unless he has other personal property liable to assessment, in which case such excess and other personal property shall be added together and constitute his personal property liable to assessment.

How person deriving income from any trade or profession to be assessed.

**36.** The personal property of an incorporated company shall not be assessed against the corporation, but each shareholder shall be assessed for the value of the stock or shares held by him as part of his personal property, unless such stock is exempted by this Act: Provided always, that, in companies investing their means in gasworks, waterworks, plank and gravel roads, manufactories, hotels, railways and tram roads, harbours or other works requiring the investment of the whole or principal part of the stock in real estate already assessed for the purpose of carrying on such business, the shareholders shall only be assessed on the income derived from such investment.

Personal property of corporate companies not to be assessed.

Provido.

**37.** The personal property of a partnership shall be assessed against the firm at the usual place of business of the partnership, and a partner in his individual capacity shall not be assessable for his share of any personal property of the partnership which has already been assessed against the firm.

Personal property of partnerships, how and where to be assessed.



As to partnerships having more than one locality.

**38.** If a partnership has more than one place of business, each branch shall be assessed, as far as may be, in the locality where it is situate, for that portion of the personal property of the partnership which belongs to that particular branch, and if this cannot be done, the partnership may elect at which of its places of business it will be assessed for the whole personal property, and shall be required to produce a certificate at each of the other places of business of the amount of personal property assessed against it elsewhere.

Where parties carrying on trade, etc., to be assessed for personal property.

**39.** Every person having a farm, shop, factory, office or other place of business, where he carries on a trade, profession, or calling, shall, for all personal property owned by him, wheresoever situate, be assessed in the municipality or ward, where he has such place of business, at the time when the assessment is made.

When the party has two or more places of business.

**40.** If he has two or more such places of business in different municipalities or wards, he shall be assessed at each for that portion of his personal property connected with the business carried on thereat; or, if this cannot be done, he shall be assessed for part of his personal property at one, and part at another of his places of business; but he shall, in all such cases, produce a certificate at each place of business of the amount of personal property assessed against him elsewhere.

When the party has no place of business.

**41.** If any person has no place of business, he shall be assessed at his place of residence.

Case of executors, etc.

**42.** Personal property in the sole possession or under the sole control of any person as trustee, guardian, executor or administrator, shall be assessed against such person alone.

Separate assessment of joint owners or possessors.

**43.** In the case of personal property, owned or possessed by or under the control of more than one person, resident in the municipality or ward, each shall be assessed for his share only, or if they hold in a representative character, then each shall be assessed for an equal portion only.

Parties assessed as trustees, etc., to have their representative character attached to their names.

**44.** When a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment, and he shall be assessed for the value of the real and personal estate held by him, whether in his individual name, or in conjunction with others in such representative character, at the full value thereof, or for the proper proportion thereof, if others resident within the same municipality be joined with him in such representative character.

Particulars respecting real

**45.** It shall be the duty of every person assessable for real or personal property in any local municipality, to give all necessary

necessary information to the Assessors, and if required by the Assessor or by one of the Assessors, if there be more than one, he shall deliver to him a statement in writing, signed by such person (or by his agent, if the person himself be absent,) containing all the particulars respecting the real or personal property assessable against such person, which are required in the assessment roll; and if any reasonable doubt be entertained by the Assessor, of the correctness of any information given by the party applied to, the Assessor shall require from him such written statement.

property to be delivered to assessors in writing by the parties to be assessed.

**46.** No such statement shall bind the Assessor, nor excuse him from making due enquiry to ascertain its correctness; and, notwithstanding the statement, the Assessor may assess such person for such amount of real or personal property as he believes to be just and correct, and may omit his name or any property which he claims to own or occupy, if the Assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such property.

Statements given by parties not binding on assessors.

**47.** In case any person fails to deliver to the Assessor the written statement, mentioned in the preceding sections when required so to do, or knowingly states anything falsely in the written statement required to be made as aforesaid, such person shall, on complaint of the Assessor, and, upon conviction before a Justice of the Peace having jurisdiction within the county wherein the municipality is situate, forfeit and pay a fine of twenty dollars, to be recovered in like manner as other penalties upon summary conviction before a Justice of the Peace.

Penalty for not giving statement or making false statement.

**48.** Every Assessor, before the completion of his roll, shall leave for every party named thereon, resident or domiciled, or having a place of business within the municipality, and shall transmit by post to every non-resident who shall have required his name to be entered thereon, and furnished his address to the Clerk, a notice of the sum at which his real and personal property has been assessed, according to schedule B, and shall enter on the roll opposite the name of the party, the time of delivering or transmitting such notice, which entry shall be *prima facie* evidence of such delivery or transmission.

Assessors to give notice to parties of the value at which their property is assessed.

**49.** The Assessors shall make and complete their rolls in every year between the first day of February and such day as the municipal council may appoint, not later than the fifteenth day of April in townships and incorporated villages, and not later than the first day of May in cities and towns, and shall attach thereto a certificate signed by them, respectively, and verified upon oath or affirmation in the form following: "I do certify that I have set down in the above assessment roll all the real property liable to taxation situate in the municipality or ward of (as the case may be) and the true actual value thereof in each case, according to the best of my information

When assessment roll to be completed.

Certificate attached to roll.

"and



"and judgment; and also that the said assessment roll contains  
 "a true statement of the aggregate amount of the personal  
 "property, or of the taxable income, of every party named in  
 "the said roll; and that I have estimated and set down the same  
 "according to the best of my information and belief; and I fur-  
 "ther certify, that I have entered therein the names of all the  
 "resident householders, tenants and freeholders, and of all other  
 "freeholders who have required their names to be entered  
 "thereon, with the true amount of property occupied or owned  
 "by each, and that I have not entered the name of any person  
 "whom I do not truly believe to be a householder, tenant or  
 "freeholder, or the *bona fide* occupier or owner of the property  
 "set down opposite his name, for his own use and benefit; and  
 "that the date of delivery or transmitting the notice, required  
 "by section forty-eight of the Assessment Act, is, in every  
 "case, truly and correctly stated in the said roll."

Assessment  
 rolls to be de-  
 livered to  
 clerks of muni-  
 cipalities, etc.

**50.** Every Assessor shall deliver to the Clerk of the municipality the assessment roll, completed and added up, with the certificates and affidavits attached; and the Clerk shall thereupon file the same in his office, and the same shall, at all convenient office hours, be open to the inspection of all the householders, tenants and freeholders resident, owning or in possession of property in the municipality.

#### COURT OF REVISION AND APPEAL.

When council  
 consists of five  
 members only.

**51.** If the council of the municipality consists of not more than five members, such five members shall be the Court of revision for the municipality.

When of more  
 than five.

**52.** If the council consists of more than five members, such council shall appoint five of its members to be the Court of Revision.

Quorum.

**53.** Three members of the Court of Revision shall be a quorum; and a majority of a quorum may decide all questions before the Court.

Who to be  
 clerk.

**54.** The Clerk of the municipality shall be Clerk of the Court, and shall record the proceedings thereof.

Meetings of  
 Court.

**55.** The Court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality.

May adminis-  
 ter oaths, etc.

**56.** The Court, or some member thereof, shall administer an oath to any party or witness, before his evidence can be taken, and may issue a summons to any witness to attend such Court.

Penalty on  
 witnesses who

**57.** If any witness so summoned fails to attend (having been tendered compensation for his time at the rate of fifty cents a day,)



day,) he shall incur a penalty not exceeding twenty dollars, to be recoverable with costs, by and to the use of the municipality, in any way in which penalties incurred under any by-law thereof may be recovered.

**58.** At the times or time appointed, the Court shall meet and try all complaints in regard to persons wrongfully placed upon or omitted from the roll, or assessed at too high or too low a sum.

**59.** All the duties of the Court of Revision, which relate to the matters aforesaid, shall be completed and the rolls finally revised by the Court, before the fifteenth day of June in every year.

**60.** The proceedings for the trial of complaints shall be as follows :—

(1.) Any person complaining of an error or omission in regard to himself, as having been wrongfully inserted on or omitted from the roll, or as having been undercharged or overcharged by the Assessor in the roll, may, personally or by his agent, within fourteen days after the time fixed for the return of the roll, give notice in writing to the Clerk of the municipality, that he considers himself aggrieved for any or all of the causes aforesaid.

(2.) If a municipal elector thinks that any person has been assessed too low or too high, or has been wrongfully inserted on or omitted from the roll, the Clerk shall, on his request in writing, give notice to such person and to the Assessor of the time when the matter will be tried by the Court; and the matter shall be decided in the same manner as complaints by a person assessed.

(3.) The Clerk of the Court shall post up, in some convenient and public place within the municipality or ward, a list of all complainants, on their own behalf, against the Assessors' return, and of all complainants, on account of the assessment of other persons, stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear the complaints; but no alteration shall be made in the roll, unless under a complaint formally made according to the above provisions.

(4.) When it shall appear that there are palpable errors which need correction, the Court may extend the time for making complaints ten days further, and may then meet and determine the additional matter complained of, and the Assessor may, for such purpose, be the complainant.

(5.) Such list may be in the following form :—

M

Form of  
Appeals notice list.

Appeals to be heard at the Court of Revision, to be held at  
on the day of 18 .

Appellant.	Respecting whom.	Matter complained of.
A. B. ....	Self .....	Overcharged on land.
C. D. ....	E. F. ....	Name omitted.
G. H. ....	J. K. ....	Not <i>bona fide</i> owner or occupant.
L. M. ....	N. O. ....	Personal property un-
etc. ....	etc. ....	dercharged.

Clerk to  
advertize  
sittings of  
Court;

(6.) The Clerk shall also advertise in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published, the time at which the Court will hold its first sittings for the year.

to leave a list  
with assessor;

(7.) The Clerk shall also cause to be left at the residence of each Assessor, a list of all the complaints respecting his roll.

and prepare  
notice to per-  
son complained  
against.

Form.

(8.) The Clerk shall prepare a notice in the form following for each person with respect to whom a complaint has been made :  
"Take notice that you are required to attend the Court of  
Revision at on the day of in the matter  
of the following appeal :

"Appellant,

G. H.

"Subject—That you are not a *bona fide* owner or occupant,  
(or as the case may be.)"

(Signed.)

"X. Y

"To J. K."

"Clerk."

Service to be  
at residence.

(9.) If the person resides or has a place of business in the local municipality, the Clerk shall cause the notice to be left at the person's residence or place of business.

How absentees  
served.

(10.) If the person be not known, then to be left with some grown person on the assessed premises, if there be any such person there resident; or if the person be not resident in the municipality, then the notice to be addressed to such person through the post office.

When notice  
to be com-  
pleted.

(11.) Every notice hereby required, whether by publication, advertisement, letter or otherwise, shall be completed at least six days before the sittings of the Court.

Proceedings  
when party  
assessed com-  
plains of over-  
charge on per-  
sonal prop-  
erty, etc.

(12.) If the party assessed complains of an overcharge on his personal property or taxable income, he or his agent may appear before the Court, and make a declaration, in case the complainant appears in person, in the form in schedule D, E or F, to this Act, according to the fact; and if the complainant appears by agent, such agent may make the declaration in the form in schedule G, H or I, as the case may be; and no abatement shall be

be made from the amount of income on account of debts due, nor from the value of personal property, other than income in respect of debts, except debts due for or on account of such personal property; and the Court shall thereupon enter the person assessed at such an amount of personal property or taxable income as is specified in such declaration, unless such Court shall be dissatisfied with the declaration, in which case the party making the declaration, and any witnesses whom it may be desirable to examine, may be examined on oath by such Court, respecting the correctness of such declaration; and such Court shall confirm, alter or amend the roll as the evidence shall seem to warrant.

Effect of declaration by each party.

(13.) In other cases the Court, after hearing upon oath the complainant, and the Assessor or Assessors, and any witness adduced, and, if deemed desirable, the party complained against, shall determine the matter, and confirm or amend the roll accordingly.

Proceedings in other cases.

(14.) If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*.

When to proceed *ex parte*.

**61.** The roll, as finally passed by the Court, and certified by the Clerk as so passed, shall be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, except in so far as the same may be further amended, on appeal to the Judge of the County Court.

The roll as finally passed to bind all parties.

**62.** The Court shall also, before or after the fifteenth day of June, and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, or from any person who declares himself, from sickness or extreme poverty, unable to pay the taxes, or who, by reason of any gross and manifest error in the roll as finally passed by the Court, has been overcharged more than twenty-five per cent, on the sum he ought to be charged; and the Court may, subject to the provisions of any by-law in this behalf, remit or reduce the taxes due by any such person, or reject the petition; and the council of any local municipality may, from time to time, make such by-laws, and repeal or amend the same.

Further powers granted to Court of Revision for remitting or reducing taxes.

#### APPEAL FROM THE COURT OF REVISION.

**63.** If a person be dissatisfied with the decision of the Court of Revision, he may appeal therefrom, in which case—

Mode of appeal from Court.

(1.) He shall, within three days after the decision, in person or by Attorney or agent, serve upon the Clerk a written notice of his intention to appeal to the County Judge.

Service of notice thereof.

(2.) The Clerk shall thereupon give notice to all the parties appealed

Clerk to notify parties.



appealed against, in the same manner as is provided for notice of complaint by the sixty-first section of this Act.

Party appealing to notify Division Court clerk thereof.

(3.) The party appealing shall, at the same time and in like manner, give a written notice of his appeal to the Clerk of the Division Court within the limits of which the municipality or assessment district is situated, and shall deposit with him the sum of two dollars for each decision appealed against, as security for the costs of the appeal.

Day for hearing.

(4.) The Judge shall appoint a day for hearing the appeal.

List of appellants, etc.

(5.) The Clerk of the Division Court shall cause a notice to be conspicuously posted up at the office of such Court, containing the names of all the appellants and parties appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a Court will be held to hear such appeal.

Hearing and adjournment.

(6.) At the Court so holden the Judge shall hear the appeals, and may adjourn the hearing, from time to time, and defer the judgment thereon at his pleasure, so that a return can be made to the Clerk of the municipality before the fifteenth day of July.

Appeals with respect to non-residents' lands.

**64.** In case any non-resident, whose land within the limits of any city, town, incorporated village or township, has been or shall be assessed in any revised and corrected assessment roll, complains by petition to the proper municipal council, at any time before the first day of May in the year next following that in which the assessment is made, such council shall, at its first meeting, after one week's notice to the appellant, try and decide upon such complaint; and all decisions of municipal councils under this Act may be appealed from, tried and decided, as provided by the sixtieth section of this Act; and if the lands shall be found to have been assessed twenty-five per centum higher than similar land belonging to residents, the council or Judge shall order the taxes rated on such excess to be struck off; and, in all such cases, where the land has been subdivided into park, village, or town lots, if the same are owned by the same person or persons, the statute labor tax shall be charged only upon the aggregate of the assessment, according to the provisions of this Act; but no roll shall be amended, under this section of this Act, if the complaint was tried and decided before such roll was finally revised and corrected, under the provisions of the sixtieth, sixty-first, sixty-second and sixty-third sections of this Act; and this clause shall not affect the right of appeal against the assessment made prior to the year one thousand eight hundred and sixty-six, at any time before the land in question shall have been sold for taxes; and if such lands should, during such appeal, be advertized for sale, the land shall be charged with all costs incurred, but no appeal shall be made after the issue of a warrant by the Treasurer or Chamberlain for the collection of taxes.

Lots subdivided not to affect rolls revised and corrected.

Appeals against former assessments not affected.

**65.** At the Court to be holden by the County Judge, or acting Judge of the Court, to hear the appeals hereinbefore provided for, the person having the charge of the assessment roll passed by the Court of Revision shall appear and produce such roll, and all papers and writings in his custody connected with the matter of appeal, and such roll shall be altered and amended according to the decision of the Judge, if then given, who shall write his initials against any part of the said roll in which any mistake, error or omission is corrected or supplied, or if the said roll be not then produced, or the decision be not then given by the Judge, such decision and judgment shall be certified by the Clerk of the Court to the Clerk of the municipality, who shall forthwith alter and amend the roll, according to the same, and shall write his name against every such alteration or correction.

Assessment roll to be produced to the Court, and amended, etc.

Amendments how certified.

**66.** In all proceedings before the County Judge or acting Judge of the Court, under or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of, and for the examination on oath, of all parties, whether claiming, or objecting or objected to, and all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him, either in term time or vacation, in the same Court, in relation to any matter or suit depending in the said Court.

County Judge to have power to examine on oath, etc.

**67.** The cost of any proceeding before the Court of Revision or Judge as aforesaid, shall be paid by or apportioned between the parties, in such manner as the Court or Judge shall think fit, and costs ordered to be paid by any party claiming or objecting or objected to, or by any Assessor, Clerk of a municipality, or other person, may be enforced when ordered by the Court, by a distress warrant under the hand of the Clerk and corporate seal of the municipality, and when ordered by the Judge by execution from the County Court, of which such Judge is the Judge, in the same manner as upon an ordinary judgment recovered in such Court.

Costs to be apportioned by the Judge, and how enforced.

**68.** The costs shall be taxed according to the schedule of fees under the Division Courts Act, as in suits for the recovery of sums exceeding forty and not exceeding sixty dollars in the said Court.

By what scale of fees costs to be taxed.

**69.** The decision and judgment of the Judge or acting Judge shall be final and conclusive in every case adjudicated, and the Clerk of the municipality shall amend the rolls accordingly.

Decision of County Judge to be final.

**70.** When, after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the Clerk of the municipality shall, without delay, transmit to the county Clerk a certified copy thereof.

Copy of roll to be transmitted to county clerk.



## COUNTY COUNCILS.

Annual examination of assessment rolls by municipal councils, and for what purpose.

**71.** The council of every county shall, yearly, before imposing any county rate, and not later than the first day of July, examine the assessment rolls of the different townships, towns, and villages, in the county, for the preceding financial year, for the purpose of ascertaining whether the valuation made by the Assessors in each township, town or village for the current year, bears a just relation to the valuation so made in all such townships, towns, and villages, and may, for the purpose of county rates, increase or decrease the aggregate valuations of real and personal property in any township, town or village, adding or deducting so much per centum as may, in their opinion, be necessary to produce a just relation between all the valuations of real and personal estate in the county; but they shall not reduce the aggregate valuation thereof for the whole county as made by the Assessors.

2. In equalizing the rolls of the towns and villages, the county council shall take the interest of the amounts returned on the rolls, at six per centum, and capitalize the same at ten per centum, and such capitalization shall be the aggregate valuation for such towns and villages for the purposes mentioned in the preceding section.

Local municipality may appeal.

3. If any local municipality shall be dissatisfied with the action of any county council in increasing or decreasing the aggregate of the valuation made by the Assessors of any municipality, the municipality so dissatisfied may appeal from the decision of the council to the Judge of the County Court of the county at any time within ten days after such decision, by giving to such Judge and the Clerk of the county council a notice in writing, under the seal of the municipality, of such appeal; and the County Judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may, at such court, proceed to hear and determine the matter of appeal, or adjourn the hearing thereof, from time to time: Provided that the same be not adjourned or judgment deferred beyond the first day of August next after notice of the appeal; and such Judge shall equalize the whole assessment of the county.

Provido.

Effect of clerk of municipality omitting to send copy of roll.

**72.** If the Clerk of the municipality has neglected to transmit a certified copy of the assessment rolls, such neglect shall not prevent the county council from equalizing the valuations in the several municipalities according to the best information obtainable; and any rate imposed, according to the equalized assessment, shall be as valid as if all the assessment rolls had been transmitted.

Valuators to attest their report on oath.

**73.** In cases where valuers are appointed by the council to value all the real and personal property within the county, they shall attest their report by oath or affirmation in the same manner



manner as Assessors are required to verify their rolls by the one hundred and thirteenth section of this Act.

**74.** The council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall, in order that the same may be assessed equally on the whole rateable property of the county, make the amount of property returned on the assessment rolls of such townships, towns and villages, or reported by the valuator as finally revised and equalized for the preceding year, the basis upon which the apportionment is made.

Apportionment of county rates, how to be based.

**75.** If a new municipality be erected within a county, so that there are no assessment or valuator's rolls of the new municipality for the next preceding year, the county council shall, by examining the rolls of the former municipality or municipalities of which the new municipality then formed part, ascertain, to the best of their judgment, what part of the assessment of the municipality or municipalities had relation to the new municipality, and what part should continue to be accounted as the assessment of the original municipality, and their several shares of the county tax shall be apportioned between them accordingly.

Case of new municipalities.

**76.** When a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and, by by-law, direct, what portion of such sum shall be levied in each township, town or village in such county or locality.

County councils to apportion sums required for county purposes.

**77.** The county Clerk shall, before the fifteenth day of August in each year, certify to the Clerk of each municipality in the county, the total amount which has been so directed to be levied therein for the then current year, for county purposes, or for the purposes of any such locality; and the Clerk of the municipality shall calculate and insert the same in the collector's roll for that year.

County clerk to certify amounts to clerks of local municipalities.

**78.** Nothing in this Act contained shall alter or invalidate any special provisions for the collection of a rate for interest on county debentures, whether such provisions be contained in any municipal corporations' Act heretofore or still in force in this Province, or any Act respecting the Consolidated Municipal Loan Fund in Upper Canada, or in any general or special Act authorizing the issue of debentures, or in any by-law of the county council providing for the issue of the same.

Act not to affect provisions for rates to raise interest on county debentures.

#### STATUTE LABOR.

**79.** No person in Her Majesty's Naval or Military Service on full pay, or on actual service, shall be liable to perform statute labor or to commute therefor; nor shall any non-commissioned officer or private of the volunteer force, certified by the district staff officer

Persons in military service exempt.

officer as being an efficient volunteer; but this last exemption shall not apply to any volunteer who may be assessed for property.

Who liable,  
and in what  
ratio, in cities,  
towns and vil-  
lages.

**80.** Every other male inhabitant of a city, town or village, of the age of twenty-one years and upwards, and under sixty years of age, (and not otherwise exempted by law from performing statute labor,) who has not been assessed upon the assessment roll of the city, town or village, or whose taxes do not amount to two dollars, shall, instead of such labor, be taxed at two dollars yearly therefor, to be levied and collected at such time, by such person, and in such manner as the council of the municipality shall, by by-law, direct, and which person shall not be required to have any property qualification.

Where to be  
performed.

**81.** No person shall be exempt from the tax in the last preceding section named, unless he shall produce a certificate of his having performed statute labor or paid the tax elsewhere.

Liability of  
persons not  
otherwise  
assessed in  
townships.

**82.** Every male inhabitant of a township between the ages aforesaid, who is not otherwise assessed to any amount, and who is not exempt by law from performing statute labour, shall be liable to two days of statute labour on the roads and highways in the township, and no council shall have any power to reduce the statute labor required under this section.

Ratio of ser-  
vice in case  
of persons  
assessed.

**83.** Every person assessed upon the assessment roll of a township shall, if his property is assessed at not more than three hundred dollars, be liable to two days' statute labor; at more than three hundred dollars, but not more than five hundred dollars, three days; at more than five hundred dollars, but not more than seven hundred dollars, four days, at more than seven hundred dollars, but not more than nine hundred dollars, five days; and, for every three hundred dollars over nine hundred dollars or any fractional part thereof over one hundred and fifty dollars, one additional day; but the council of any township, by a by-law operating generally and rateably, may reduce or increase the number of days' labour to which all the parties, rated on the assessment roll or otherwise shall be respectively liable, so that the number of days' labor to which each person is liable shall be in proportion to the amount at which he is assessed.

Council may  
reduce or in-  
crease the  
number of  
days propor-  
tionately.

Lots sub-  
divided as  
park lots, etc.

2. In townships where farm lots have been subdivided into park or village lots, and the owners are not resident, and have not required their names to be entered on the assessment roll, the statute labour shall be commuted by the township Clerk, in making out the list required under the ninety-second section of this Act, when such lots are under the value of two hundred dollars, to a rate not exceeding one half per centum on the valuation; but the council may direct a less rate to be imposed by a general by-law affecting such village lots.

Commutation  
may be at \$1  
per day.

**84.** The council of any township may, by by-law, direct that a sum not exceeding one dollar a day shall be paid as commutation



mutation of statute labor, in which case the commutation tax shall be added in a separate column in the Collector's roll, and shall be collected and accounted for like other taxes.

**85.** Any local municipal council may, by a by-law passed for that purpose, fix the rate at which parties may commute their statute labour, at any sum not exceeding one dollar for each day's labour, and the sum so fixed shall apply equally to residents who are subject to statute labor, and to non-residents in respect to their property.

Commutation may be fixed at any sum not exceeding \$1.

**86.** When no such by-law has been passed, the statute labor in the townships, in respect of lands of non-residents, shall be commuted at the rate of one dollar for each day's labour.

If no by-law, commutation to be at \$1.

**87.** Any person liable to pay the sum named in the eightieth section, or any sum for statute labour commuted under the eighty-fifth section of this Act, shall pay the same to the Collector to be appointed to collect the same within two days after demand thereof by the said Collector; and, in case of neglect or refusal to pay the same, the Collector may levy the same by distress of his goods and chattels, with costs of the distress; and, if no sufficient distress can be found, then upon summary conviction before a Justice of the Peace of the county in which the local municipality is situate, of his refusal or neglect to pay the said sum, and of there being no sufficient distress, he shall incur a penalty of five dollars with costs, and, in default of payment at such time as the convicting Justice shall order, shall be committed to the common gaol of the county, and be there put to hard labor for any time not exceeding ten days, unless such penalty and costs and the costs of the warrant of commitment and of conveying the said person to gaol, shall be sooner paid; and any person liable to perform statute labour under the eighty-second section of this Act not commuted, shall perform the same when required so to do by the pathmaster or other officer of the municipality appointed for the purpose; and, in case of wilful neglect or refusal to perform such labour after six days' notice requiring him to do the same, shall incur a penalty of five dollars, and upon summary conviction thereof before a Justice of the Peace aforesaid, such Justice shall order the same together with the costs of prosecution and distress, to be levied by distress of the offender's goods and chattels, and, in case there shall be no sufficient distress, such offender may be committed to the common gaol of the county and there put to hard labour for any time not exceeding ten days, unless such penalty and costs and the costs of the warrant of the commitment, and of conveying the said person to gaol shall be sooner paid; and all sums and penalties, other than costs recovered under this section, shall be paid to the Treasurer of the local municipality, and form part of the statute labour fund thereof.

Payment of tax in lieu of statute labor may be enforced by distress or imprisonment.

**88.** No non-resident who has not required his name to be entered

Non-resident entered



dents when  
not admitted  
to perform  
statute labor.

entered on the roll, shall be permitted to perform statute labour in respect of any land owned by him, but a commutation tax shall be charged against every separate lot or parcel according to its assessed value; and, in all cases when the statute labour of a non-resident is paid in money, the municipal council shall order the same to be expended in the statute labour division where the property is situate, or where the said statute labour tax is levied.

When non-  
residents ad-  
mitted, but  
do not perform  
statute labour.

**89.** In case any non-resident, whose name has been entered on the resident roll, does not perform his statute labour or pay commutation for the same, the overseer of the highways in whose division he is placed, shall return him as a defaulter to the Clerk of the municipality, before the fifteenth day of August, and the Clerk shall, in that case, enter the commutation for statute labour against his name in the Collector's roll; and, in all cases both of residents and non-residents, the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value; but every resident shall have the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council.

Amount of  
non-residents'  
statute labour.

#### COLLECTION OF RATES.

Clerks of mu-  
nicipalities to  
make out col-  
lectors' rolls;  
their form, con-  
tents, etc.

**90.** The Clerk of every local municipality shall make a Collector's roll or rolls as may be necessary containing columns for all information required by this Act, to be entered by the Collector therein on which he shall set down the name in full of every person assessed, and the assessed value of his real and personal property and taxable income, as ascertained after the final revision of the assessments, and he shall calculate, and, opposite the said assessed value as therein described of each respective party, he shall set down in one column to be headed "County Rates," the amount for which the party is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "Township," "Village," "Town," or "City Rate," the amount with which the party is chargeable in respect of sums ordered to be levied by the council of the local municipality for the purposes thereof, or for the commutation of statute labour, and in other columns any special rate for collecting the interest upon debentures issued, or any local rate or school rate or other special rate, the proceeds of which are required by law or by the by-law imposing it, to be kept distinct and accounted for separately; and every such last mentioned rate shall be calculated separately, and the column therefor headed "Special Rate," "Local Rate," "School Rate," as the case may be.

Provincial  
taxes to be  
assessed and  
collected in

**91.** All moneys assessed, levied and collected under any Act by which the same are made payable to the Receiver General of the late Province of Canada or to the Treasurer of this Province,

Province, or other public officer for the public uses of the Province, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected, in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the Collectors' rolls in separate columns, in the heading whereof shall be designated the purpose of the rate, and the Clerk shall deliver the roll, certified under his hand, to the Collector, on or before the first day of October, or such other day as may be prescribed by a by-law of the local municipality,

same manner  
as local rates.

**92.** The Clerk of every local municipality shall also make out a roll in which he shall enter the lands of non-residents whose names have not been set down in the Assessor's roll, together with the value of every lot, part of lot, or parcel, as ascertained after the revision of the rolls; and he shall enter opposite to each lot or parcel, all the rates or taxes with which the same is chargeable, in the same manner as is provided for the entry of rates and taxes upon the Collector's roll, and shall transmit the roll so made out, certified under his hand, to the Treasurer of the county in which his municipality is situate, or to the city Chamberlain, as the case may be, on or before the first day of November.

Clerk to make  
out rolls of  
lands of non-  
residents  
whose names  
not in assess-  
ment rolls, etc.

#### COLLECTORS AND THEIR DUTIES.

**93.** The Collector, upon receiving his collection roll, shall proceed to collect the taxes therein mentioned.

Duties of col-  
lectors.

**94.** He shall call at least once on the person taxed, or at the place of his usual residence or domicile, or place of business, if within the local municipality in and for which such Collector has been appointed, and shall demand payment of the taxes payable by such person, and shall, at the time of such demand, enter the date thereof on his collection roll opposite the name of the person taxed; and such entry shall be *prima facie* evidence of such demand.

To demand  
payment of  
rates.

**95.** In case any person neglects to pay his taxes for fourteen days after such demand, as aforesaid, the Collector may, by himself or by his agent, levy the same with costs, by distress of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his possession, wherever the same may be found within the county in which the local municipality lies, or of any goods or chattels found on the premises, the property of, or in the possession of, any other occupant of the premises; and the costs chargeable shall be those payable to bailiffs under the Division Courts' Act.

When pay-  
ment be not  
made, collec-  
tors to levy  
the tax by dis-  
tress and sale.

**96.** If any person whose name appears on the roll be not resident within the municipality, the Collector shall transmit to him by post, addressed in accordance with the notice given by such

Proceedings in  
case of non-  
residents.



such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall, at the time of such transmission, enter the date thereof on the roll opposite the name of such person; and such entry shall be *prima facie* evidence of such transmission and of the time thereof.

When collectors may distrain for rates on non-residents' land.

**97.** In case of the land of non-residents, who have required their names to be entered on the roll, the Collector, after one month from the date of the delivery of the roll to him, and after fourteen days from the time such demand as aforesaid has been transmitted to him by post, may make distress of any goods and chattels which he may find upon the land; and no claim of property, lien or privilege shall be available to prevent the sale, or the payment of the taxes and costs out of the proceeds thereof.

Public notice of sale to be given, and in what manner.

**98.** The Collector shall, by advertisement posted up in at least three public places in the township, village or ward wherein the sale of the goods and chattels distrained is to be made, give at least six days' public notice of the time and place of such sale, and of the name of the person whose property is to be sold; and, at the time named in the notice, the Collector or his agent shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary.

Surplus, if unclaimed, to be paid to party in whose possession the goods were;

**99.** If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus be made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made.

or to admitted claimant.

**100.** If any such claim be made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant.

When the right to such surplus contested.

**101.** If the claim is contested, such surplus money shall be paid over by the Collector to the Treasurer or Chamberlain of the local municipality, who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise.

Taxes not otherwise recoverable to be recovered by action.

**102.** If the taxes payable by any person cannot be recovered in any special manner provided by this Act, they may be recovered with interest and costs, as a debt due to the local municipality, in which case the production of a copy of so much of the Collector's roll as relates to the taxes payable by such person, purporting to be certified as a true copy by the Clerk of the local municipality, shall be *prima facie* evidence of the debt.

Collector to return his roll and pay over

**103.** On or before the fourteenth day of December in every year, or on such day in the next year not later than the first of April,



April, as the council of the municipality may appoint, every Collector shall return his roll to the Treasurer or Chamberlain, and shall pay over the amount payable to such Treasurer or Chamberlain, specifying in a separate column on his roll how much of the whole amount paid over is on account of each separate rate; and shall make oath before the Treasurer or Chamberlain that the date of the demand of payment and transmission of statement and demand of taxes, required by sections ninety-four and ninety-six in each case, has been truly stated by him in the roll.

proceeds by the day to be appointed by council.

**104.** In case the Collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in the last preceding section mentioned, the council of the city, town, village or township may, by resolution, authorize the Collector or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes; but no such resolution or authority shall alter or affect the duty of the Collector to return his roll, or shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties.

Other persons may be employed to collect taxes which collector does not collect by a certain day.

**105.** If any of the taxes mentioned in the Collector's roll remain unpaid, and the Collector be not able to collect the same, he shall deliver to the Chamberlain or Treasurer of his municipality, an account of all the taxes remaining due on the roll; and, in such account, the Collector shall show, opposite to each assessment, the reason why he could not collect the same by inserting in each case the words "non-resident" or "not sufficient property to distrain," as the case may be.

Proceedings when taxes are unpaid, and cannot be collected.

**106.** Upon making oath before the Treasurer or Chamberlain that the sums mentioned in such account remain unpaid, and that he has not, upon diligent enquiry, been able to discover sufficient goods or chattels belonging to or in possession of the parties charged with or liable to pay such sums, or on the premises belonging to or in the possession of any occupant thereof, whereon he could levy the same, or any part thereof, the Collector shall be credited with the amount not realized.

When thus not collected, collectors to be credited with amount.

**107.** The taxes accrued on any land shall be a special lien on such land, having preference over any claim, lien, privilege or incumbrance of any party except the Crown, and shall not require registration to preserve it.

Taxes to be a lien upon land.

#### YEARLY LISTS OF LANDS GRANTED BY THE CROWN.

**108.** The Commissioner of Crown Lands shall, in the month of February in every year, transmit to the Treasurer of every county, a list of all the land within the county located as free grants, sold or agreed to be sold by the Crown, or leased, or in respect of

Annual lists of lands granted, etc., to be furnished by Commissioner of Crown Lands.

of which a license of occupation issued during the preceding year.

County treasurers to furnish copies of lists to clerks of municipalities.

**109.** The county Treasurer shall furnish to the Clerk of each local municipality in the county a copy of the said lists, as far as regards lands in such municipality, and such Clerk shall furnish the Assessors respectively a statement shewing what lands in the said annual list are liable to assessment within such Assessor's assessment district.

COUNTY TREASURERS, LOCAL TREASURERS, CLERKS AND ASSESSORS.—THEIR DUTIES.

County treasurers to furnish local clerks with lists of lands three years in arrears for taxes.

**110.** The Treasurer of every county shall furnish to the Clerk of each municipality, except in cities and towns, in the county, a list of all the lands in his municipality in respect of which any taxes shall have been in arrears for three years preceding the first day of January in any year; and the said list shall be so furnished on or before the first day of February in every year, and shall be headed in the words following: "List of lands liable to be sold for arrears of taxes in the year one thousand eight hundred and       ;" and, for the purposes of this Act, the taxes for the first year of the three which have expired under the provisions of this Act, on any land to be sold for taxes, shall be deemed to have been due for three years, although the same may not have been placed upon a collection roll until some month in the year later than the month of January.

Local clerks to keep the lists in their offices open to inspection, give copies to assessors, notify occupants, etc.

**111.** The Clerk of every municipality in each county is hereby required to keep the said list, so furnished by the county Treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver to the Assessor or Assessors of the municipality, each year, as soon as such Assessor or Assessors are appointed, a copy of such list; and it shall be the duty of the Assessor or Assessors to ascertain if any of the lots or parcels of land contained in such list are occupied, or are incorrectly described, and to notify such occupants and also the owners thereof, if known and resident within the municipality, upon their respective assessment notices, that the land is liable to be sold for arrears of taxes, and enter in a column (to be reserved for the purpose) the words "occupied and parties notified," or "not occupied," as the case may be; and all such lists shall be signed by the Assessor or Assessors and returned to the Clerk with the assessment roll, together with a memorandum of any error discovered therein, and the Clerk shall file the same in his office for public use; and every such list, or copy thereof, shall be received in any Court as evidence in any case arising concerning the assessment of such lands; and the duties herein imposed upon the Treasurer of any county and the Clerk and Assessors of any municipality, shall be performed by the Chamberlain or Treasurer and the Clerks and Assessors of cities and towns.

Lists to be returned as to towns and cities withdrawn from counties.



**112.** All Assessors shall attach to each such list a certificate signed by them, and verified by oath or affirmation, in the form following: "I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief."

Assessor's certificate.

**113.** The Clerk of each municipality shall, before the first day of May in each year, examine the assessment roll when returned by the Assessor, and ascertain whether any lot embraced in the said list last received by him from the county Treasurer, is entered upon the roll of the year as then occupied, or is incorrectly described; and the said Clerk shall, on or before the first day of May in each year, furnish to the county Treasurer a list of the several parcels of land which shall appear on the resident roll as having become occupied, or which have been returned by the Assessor as incorrectly described; and the said county Treasurer shall, on or before the first day of July in the then current year, return to the Clerk of each municipality an account of all arrears of taxes due in respect of such occupied lands, including the percentage chargeable under section one hundred and twenty-six of this Act; and the Clerk of each municipality shall, in making out the Collector's roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands for the current year; and such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the Collector's roll.

Local clerks to certify lands which have become occupied.

County treasurer to certify taxes due on them.

Clerk to insert such amount on collector's roll.

**114.** If there shall not be sufficient distress upon any of the occupied lands, in the preceding section named, to satisfy the total amount of the taxes charges against the same, as well for the arrears as for the taxes of the current year, the Collector shall so return it in his roll to the Treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made.

When there is not sufficient distress on such lands.

**115.** The Treasurer of each local municipality shall, within fourteen days after the time appointed for the return and final settlement of the Collector's roll, and before the eighth day of April in every year, furnish the county Treasurer with a statement of all arrears of taxes and school rates directed in the said Collector's roll, or by school trustees to be collected, such return to contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, on lands of non-residents, which have become occupied, as required by section one hundred and eleven of this Act, and generally, such other information as the county Treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year; and the county Treasurer shall not be bound to receive any such statement after the eighth day of April in each year.

Statement of arrears to be returned by local treasurer, and when.



Liability of lands to sale if arrears are not paid; and when.

**116.** In case it shall be found by the statement directed by the last preceding section to be made to the county Treasurer, that the arrears of taxes upon the occupied lands of non-residents, directed by the one hundred and thirteenth section of this Act to be placed on the Collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such arrears and shall be included in the next or ensuing list of lands to be sold by the county Treasurer, under the provisions of the one hundred and twenty-eighth section of this Act, notwithstanding that the same may be occupied in the year when such sale takes place; and such arrears shall not again be placed upon the Collector's roll for collection.

Penalty on clerks and assessors neglecting duties under preceding sections.

**117.** If the Clerk of any such municipality shall neglect to preserve the said list of land in arrears for taxes, furnished to him by the county Treasurer, or to furnish copies of such lists, as required, to the Assessor or Assessors, or shall neglect to return to the county Treasurer a correct list of the lands which have come to be occupied, as required by the one hundred and fourteenth section of this Act, and a statement of the balances which may remain uncollected on any such lots, as required by the one hundred and fifteenth section of this Act; or if any Assessor or Assessors shall neglect to examine such lands as are entered on each such list, and make returns in manner hereinbefore directed, every officer making such default, shall, on summary conviction thereof, before any two Justices of the Peace having jurisdiction in the county in which such municipality is situated, be liable to the penalties imposed by sections one hundred and seventy-six, one hundred and seventy-seven, and one hundred and seventy-eight of this Act; all fines so imposed to be recoverable by distress and sale of any goods and chattels of the party making default.

How to be levied.

**118.** After the Collector's roll has been returned to the Treasurer of the local municipality, and before such Treasurer has furnished the statement to the county Treasurer, mentioned in section one hundred and fifteen, arrears of taxes may be paid to such local Treasurer; but after the said statement has been referred to the county Treasurer, no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates.

After such return, local officers not to receive taxes.

Collection of arrears to belong to treasurer of county only.

**119.** The collection of the arrears shall thenceforth belong to the Treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section one hundred and seventy-two of this Act.

Municipalities may remit taxes due on non-residents' lands.

**2.** Any local municipality may, by by-law, remit, either in the whole or in part, any taxes now due or to become due upon the lands of non-residents within such municipality, specifying the

the particular lands upon which the remission is made; and, upon the passing of such by-law, it shall be the duty of the Clerk forthwith to transmit a copy of the by laws to the Treasurer or other officer having the collection of such arrears, who shall then collect only so much of said taxes as are not remitted.

**120.** The Treasurer shall not receive any part of the tax charged against any parcel of land unless the whole arrears then due be paid, or satisfactory proof is produced of the previous payment, or erroneous charge of any portion thereof; but if satisfactory proof is adduced to him that any parcel of land on which taxes are due, has been subdivided, he may receive the proportionate amount of tax chargeable upon any of the subdivisions, and leave the other subdivisions chargeable with the remainder; and the Treasurer may, in his books, divide any piece or parcel of land which may have been returned to him in arrear for taxes, into as many parts as the necessities of the case may require.

The whole amount to be paid at once, unless the land is subdivided.

**121.** The Treasurer shall, on demand, give to the owner of any land charged with arrears of taxes, a written statement of the arrears at that date; and he may charge twenty cents for the search on each separate lot or parcel not exceeding four, and, for every additional ten lots, a further fee of twenty cents; but the Treasurer shall not make any charge for search to any person who forthwith pays the taxes.

If demanded, treasurer to give a written statement of arrears.

**122.** The Treasurer of every county shall keep a separate book for each local municipality, in which he shall enter all the lands in the municipality on which it appears from the returns made to him by the Clerk and from the Collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the first day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date.

Lands on which taxes unpaid to be entered in certain books by treasurer.

**123.** If, at the yearly settlement to be made on the first day of May, it appears to the Treasurer that any land liable to assessment has not been assessed, he shall report the same to the Clerk of the municipality, and the Clerk shall enter such land on the Collector's roll of the current year or on the roll of non-residents, as the case may be, as well for the arrears omitted of the year preceding only, if any, as for the tax of the current year; and the valuation of such land so entered shall be the average valuation of the three previous years, if assessed for the said three years, but if not so assessed, the Clerk shall require the Assessor or Assessors for the current year to value such lands; and it shall be the duty of the Assessor or Assessors to value such lands when required and certify the valuation in writing to the Clerk; and the owners of such lands shall have

Proceedings where any land is found not to have been assessed in any year.

How land to be valued.

Appeal from valuation.

have the right to appeal to the council at its next or some subsequent meeting after the taxes thereon have been demanded by the Collector, but within fourteen days after such demand, which demand shall be made by the Collector before the tenth day of November; and the council shall hear and determine such appeal on some day not later than the first day of December.

Treasurer to correct errors.

**124.** The county Treasurer may correct any clerical error which he himself discovers, from time to time, or which may be certified to him by the Clerk of any municipality.

As to pretended receipts, etc.

2. If any person produces to the Treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a Collector, school trustee, or other municipal officer, he shall not be bound to accept the same until he has received a report from the Clerk of the municipality interested, certifying the correctness thereof, or until he shall be otherwise satisfied that such tax has been paid.

Ten per cent. to be added to arrears yearly.

**125.** If, at the balance to be made on the first day of May in every year, it appears that there are any arrears due upon any parcel of land, the Treasurer shall add to the whole amount then due ten per centum thereon.

When there is distress upon lands of non-residents, treasurer may authorize collector to levy.

**126.** Whenever the county Treasurer is satisfied that there is distress upon any lands of non-residents in arrear for taxes, he shall issue a warrant under his hand and seal to the Collector of the local municipality, who shall thereby be authorized to levy the amount due, upon any goods and chattels found upon the land, in the same manner, and subject to the same provisions, as are contained in the sections from section ninety-five to section one hundred and one of this Act, with respect to distresses made by Collectors.

From what period unpatented lands shall be liable to taxation.

**127.** Unpatented land vested in or held by Her Majesty, which shall hereafter be sold, or agreed to be sold, to any person, or which shall be located as a free grant, shall be liable to taxation from the date of such sale or grant; and any such land which has been already sold, or agreed to be sold, to any person, or has been located as a free grant, prior to the first day of January, one thousand eight hundred and sixty-three, shall be held to have been liable to taxation since the first day of January, one thousand eight hundred and sixty-three; and all such lands shall be liable to taxation thenceforward under this Act, in the same way as other land, whether any license of occupation, location ticket, certificate of sale, or receipt for money paid on such sale, has or has not been, or shall or shall not be issued, and (in case of sale, or agreement for sale by the Crown,) whether any payment has or has not been, or shall or shall not be made thereon, and whether any part of the purchase money is or is not overdue and unpaid; but such taxation shall not in any way affect the rights of Her Majesty in such lands.

Rights of the Crown saved.



**128.** Whenever a portion of the tax on any land has been due for and in the third year, or for more than three years preceding the current year, the Treasurer of the county shall, unless otherwise directed by a by-law of the county council, submit to the Warden of such county a list in duplicate of all the lands liable under the provisions of this Act, to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the Warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature, and one of such lists shall be deposited with the Clerk of the county, and the other shall be returned to the Treasurer, with a warrant thereto annexed, under the hand of the Warden and the seal of the county, commanding him to levy upon the land for the arrears due thereon, with his costs; Provided always, that when a warrant has been placed in the hands of the Sheriff or High Bailiff, before the first day of January, one thousand eight hundred and sixty-seven, commanding him to collect arrears of taxes, he shall proceed with the collection thereof under the provisions of the Acts in force before the passing of this Act; and in every case in which such collection is made by sale of any lands, the Sheriff or High Bailiff shall, in the event of the lands not being redeemed according to law, complete the sale by a deed of conveyance to the purchaser.

When lands to be sold for taxes.

Arrears due for three years to be levied by warrant of warden to treasurer.

Proviso as to warrants issued before Jany. 1st, 1867.

**129.** The council of a county, city or town shall have power to extend the time for the payment of taxes beyond the term of three years, by by-law passed for that purpose.

Council may extend time for payment.

**130.** It shall not be the duty of the Treasurer of any county to make inquiry before effecting a sale of lands for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land; and, if any tax in respect to any lands sold by the Treasurer after the passing of this Act, in pursuance of and under the authority thereof, shall have been due for the third year or more years preceding the sale thereof, and the same shall not be redeemed in one year after the said sale, such sale and the official deed to the purchaser of any such lands (provided the sale shall be openly and fairly conducted,) shall be final and binding upon the former owners of the said lands, and upon all persons claiming by, through or under them, it being intended by this Act that all owners of land shall be required to pay the arrears of taxes due thereon within the period of three years, or redeem the same within one year after the Treasurer's sale thereof.

Treasurer's duty on receiving warrant to sell.

Deed to be binding on all, if land not redeemed in one year.

**131.** The Treasurer shall not sell any lands which have not been included in the lists furnished by him to the Clerks of the several municipalities in the month of February preceding the sale, nor any of the lands which have been returned to him as being occupied under the provisions of the one hundred and fourteenth section of this Act, except the lands, the arrears for which had been placed on the collection roll of the preceeding year and again

What lands only the treasurer shall sell.

again returned unpaid and still in arrears in consequence of insufficient distress being found on the lands.

County treasurer to prepare list of lands to be sold and advertize in "Gazette."

**132.** The county Treasurer shall prepare a copy of the list of lands to be sold, required by section one hundred and twenty-nine of this Act, and shall include therein, in a separate column, a statement of the proportion of costs chargeable on each lot for advertizing, and for the commissions authorized by this Act to be paid to him, distinguishing lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published four weeks in the *Ontario Gazette*, and once a week, for thirteen weeks, in some newspaper published within the county, and, in the case of a union of counties, in each county of the union, if there be one published in each county, and if not in such county or counties of the union in which a newspaper is published, or, if none be so published, in some other newspaper published in some adjoining county.

Proceedings when lands in arrears for taxes in junior county separated from union of counties.

**2.** When a junior county has separated, or shall hereafter separate, from a union of counties after a return is made to the Treasurer of the united counties of lands in arrear for taxes, but such lands have not been advertised for sale by the Treasurer of the united counties, or senior county, such Treasurer shall return to the Treasurer of the junior county a list of all the lands within the junior county, returned as in arrears for taxes, and not advertised; and the Treasurer and Warden of the junior county shall have power respectively to take all the proceedings which Treasurers and Wardens, under this Act, can take for the sale and conveyance of lands in arrear for taxes; but, in case the lands in such junior county have been advertised by the Treasurer of the united counties before such separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place.

Notice to be given in such advertisement.

**133.** The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, he will proceed to sell the lands for the taxes, on a day and at a place named in the advertisement.

Time of sale.

**134.** The day of sale shall be more than ninety-one days after the first publication of the list.

Notice to be posted up.

**135.** The Treasurer shall also post a notice similar to the said advertisement, in some convenient and public place at the courthouse of the county, at least three weeks before the time of sale.

Expenses added to arrears.

**136.** The Treasurer shall, in each case, add to the arrears published his commission and the cost of publication.

Adjourning sale, if no bidders.

**137.** If, at any time appointed for the sale of the lands, no bidders appear, the Treasurer may adjourn the sale from time to time.



**138.** If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the Treasurer shall sell by public auction so much of the land as may be sufficient to discharge the taxes and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering such lands for sale, it shall not be necessary to describe particularly the portion of the lot which shall be sold, but it shall be sufficient to say that he will sell so much of the lot as shall be necessary to secure the payment of the taxes due; and the amount of taxes stated in the Treasurer's advertisement shall, in all cases, be held to be the correct amount due.

Mode in which the lands shall be sold by the treasurer.

**2.** If the Treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, he shall, at such sale, adjourn the same until a day then to be publicly named by him, not earlier than one week nor later than one month thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and, on such day, he shall sell such lands unless otherwise directed by the local municipality in which they are situate for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold shall not be at liberty to redeem the same except upon payment to the county Treasurer of the full amount of taxes due, together with the expenses of sale; and the Treasurer shall account to the local municipality for the full amount of taxes that shall be paid.

When land does not sell for full amount of taxes.

**139.** If the Treasurer sells any interest in land of which the fee is in the Crown, he shall only sell the interest therein of the lessee, licensee or locatee, and it shall be so distinctly expressed in the conveyance to be made by the Treasurer and Warden and such conveyance shall give the purchaser the same rights in respect of the land as the original lessee, licensee or locatee enjoyed, and shall be valid, without requiring the assent of the Commissioner of Crown Lands.

When treasurer sells land the fee of which is in Crown, he shall only sell the interest of lessee, etc.

**140.** If the purchaser of any parcel of land fails immediately to pay to the Treasurer the amount of the purchase money, the Treasurer shall forthwith again put up the property for sale.

When purchaser fails to pay purchase money.

**141.** The Treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been so sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to the one hundred and thirty-eighth and one hundred and thirty-ninth sections of this Act, will be executed by

Treasurer selling to give purchaser a certificate of land sold.



by the Treasurer and Warden on his or their demand, at any time after the expiration of one year from the date of the certificate, if the land be not previously redeemed.

Purchaser of lands sold for taxes to be deemed owner thereof, for certain purposes, on receipt of treasurer's certificate.

Proviso.

**142.** The purchaser shall, on the receipt of the Treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value: Provided that the purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force.

Effect of tender of arrears, etc.

**143.** From the time of a tender to the Treasurer of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the land in question.

Treasurer's commission.

**144.** Every Treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him as aforesaid.

Fees, etc., on sales of land.

**145.** Whenever land is sold by a Treasurer, according to the provisions of the one hundred and thirty-second and following sections of this Act, he may add the commission and costs which he is hereby authorized to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred.

Expenses of search in registrar's office for description, etc.

**146.** The Treasurer shall, in all certificates and deeds given for land sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot, then by such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the Registry office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the Registry office or the Government maps, where a full description cannot otherwise be obtained, such surveyor's fee not to exceed one dollar; and the charges so incurred shall be included in the account and paid by the purchaser of the land sold, or the party redeeming the same.

Treasurer entitled to no other fees.

**147.** Except as before provided, the Treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands.

Owners may, within one year, redeem

**148.** The owner of any land which may hereafter be sold for non-payment of arrears of taxes, or his heirs, executors, administrators

ministrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the county Treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per centum thereon; and the Treasurer shall give to the party paying such redemption money, a receipt, stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption

estate sold by  
paying pur-  
chase money  
and 10 per  
cent. thereon.

**149.** If the land be not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale as aforesaid, then, on the demand of the purchaser, or his assigns, or other legal representative, at any time afterwards, and on payment of one dollar, the Treasurer shall prepare and execute with the Warden, and deliver to him or them, a deed in duplicate of the land sold, in which deed any number of lots may be included at the request of the purchaser, or any assignee of the purchaser.

Deed of sale,  
if not redeem-  
ed.

**150.** Such deed shall be in the form or to the same effect as in schedule B, and shall state the date and cause of the sale, and the price, and shall describe the land, according to the provisions of section one hundred and forty-six of this Act, and shall have the effect of vesting the land in the purchaser or his heirs and assigns or other legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation."

Contents of  
deed and ef-  
fect thereof.

**151.** The Registrar or Deputy Registrar of the county in which the lands are situated, upon production of the duplicate deed, shall enter the same in the Registry book, and give a certificate of such entry and registration in accordance with the Act respecting Registrars and Registry offices.

Registration  
of deed.

**152.** As respects land sold for taxes before the first day of January, one thousand eight hundred and fifty-one, on the receipt by the Registrar of the proper county or place, of a certificate of the sale to the purchaser under the hand and seal of office of the Sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the Sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and, on production of the conveyance from the Sheriff to the purchaser, his heirs, executors, administrators or assigns, such Registrar shall register any Sheriff's deed of land sold for taxes before the first day of January, one thousand eight hundred and fifty-one; and the mode of such registry shall be the entering on record a transcript of such deed of conveyance.

On what certi-  
ficate regis-  
trars of coun-  
ties to register  
sheriff's deeds  
of lands sold  
for taxes be-  
fore 1851.

**153.** As respects land sold for taxes since the first day of January,

have certificate of execution of conveyances since Jan'y. 1st, 1851, for registration.

January, one thousand eight hundred and fifty-one, and prior to the first of January, one thousand eight hundred and sixty-six, the Sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars in the last section mentioned; and such certificate, for the purpose of registration in the Registry office of the proper county of any deed of lands sold for taxes since the first of January, one thousand eight hundred and fifty-one, shall be deemed a memorial thereof; and the deed shall be registered; and a certificate of the registry thereof shall be granted by the Registrar on production to him of the deed and certificate, without further proof; and the Registrar shall, for the registry and certificate thereof, be entitled to seventy cents and no more.

Treasurer to enter in a book descriptions of lands conveyed to purchaser by him.

**154.** The Treasurer shall enter in a book, which the county council shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all copies of Collectors' rolls and other documents relating to non-resident lands, be by him kept amongst the records of the county.

Deed valid against all parties, if not questioned within a certain time.

**155.** Whenever lands shall have been or may be hereafter sold for arrears of taxes, and the Sheriff or Treasurer, as the case may be, shall have given a deed for the same, such deed shall be to all intents and purposes valid and binding, except as against the Crown, if the same has not been questioned before some Court of competent jurisdiction by some person interested in the land so sold, within two years after the passing of this Act, when the land was sold and a deed given by the Sheriff or Treasurer, before the passing of this Act, or within two years from the time of sale, when such sale shall take place after the passing of this Act.

The non-resident land fund.

**156.** The council may, by by-law, direct that all the moneys received by the county Treasurer on account of taxes on non-resident lands, shall be paid at stated periods to the several local municipalities to which such taxes were due, or shall constitute a distinct and separate fund to be called the "Non-resident Land Fund" of such county.

Treasurer to open an account therefor.

**157.** The Treasurer shall, when such fund may have been created, open an account for each local municipality with the said fund.

Municipalities united and afterwards disunited, etc.

**158.** If two or more local municipalities, having been united for municipal purposes, be afterwards disunited, or if a municipality or part of a municipality be afterwards added to or detached from any county, or to or from any other municipality, the Treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date



date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate; and, if a union of counties is about to be dissolved, all the taxes on non-residents' land imposed by by-laws of the provisional council of the junior county, shall be returned to and collected by the Treasurer of the united counties, and not by the provisional Treasurer; and the Treasurer of the united counties shall open an account forthwith for the junior county with the non-resident land fund.

When any union about to be dissolved.

**159.** In cases where a new municipality shall be formed partly from two or more municipalities situate in different counties, the collection of non-resident taxes due at the time of formation, shall remain in the hands of the Treasurer of the respective counties, formerly having jurisdiction over the respective portions of territory forming the new municipality; and the respective Treasurers shall keep a separate account of such moneys, and pay the same to the new municipality; and where a new municipality shall be formed from two or more municipalities situate in any one county, the Treasurer shall, in like manner, keep a separate account for such new municipality.

New municipalities partly in one county and partly in another.

**160.** The Treasurer of the county shall not be required to keep a separate account of the several distinct rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land.

All arrears to form one charge upon lands subject to them, etc.

**161.** Every local municipal council in paying over any school or local rate, or its share of any county rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the municipality, any deficiency arising from the non-payment of the taxes, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, the tax on personal property.

Deficiencies in certain taxes to be supplied by municipality.

**162.** All sums which may at any time be paid to a municipality out of the Non-Resident Land Fund of the county, shall form part of the general funds of such municipality.

Money from land fund how appropriated.

**163.** The council of the county may, from time to time, by by-law, authorize the Warden to issue, under the corporate seal, upon the credit of the non-resident land fund, debentures payable not later than eight years after the date thereof, and for sums not less than one hundred dollars each, so that the whole of the debentures at any time issued and unpaid do not exceed two thirds of all arrears then due and accruing upon the lands in the county, together with such other sums as may be in the Treasurer's hands, or otherwise invested to the credit of the said fund; and all debentures issued by the county shall be in the exclusive custody of the Treasurer, who shall be responsible for their safety until their proceeds are deposited with him.

Debentures may be issued on the credit of non-resident land fund.

Who to have charge of them.

By whom to be negotiated.

Proviso.

Provision for payment of interest on such debentures.

Surplus of the non-resident land fund to be divided among municipalities.

Treasurer's per centage or salary how paid.

Annual statements of fund to be submitted to councils.

What it shall show.

Copy to be transmitted to Provincial Secretary.

Collection of

**164.** Such debentures shall be negotiated by the Warden and Treasurer of the county, and the proceeds shall be paid into the said fund, and the interest on the said debentures, and the principal when due, shall be payable out of such fund: Provided always, that the purchaser shall not be bound to see to the application of the purchase money, or be held responsible for the non-application thereof.

**165.** If at any time there be not, in the non-resident land fund, where such fund may have been created, money sufficient to pay the interest upon a debenture or to redeem the same when due, such interest or debenture shall be payable out of the general county funds, and the payment thereof may be enforced in the same manner as is by law provided in the case of other county debentures.

**166.** The council of the county may, from time to time, pass by-laws apportioning the surplus moneys in the non-resident land fund amongst the municipalities rateably, according to the moneys received and arrears due on account of the non-resident lands in each municipality; but such apportionment shall always be so limited that the debentures unpaid shall never exceed two-thirds of the whole amount to the credit of the fund.

**167.** The Treasurer shall not be entitled to receive from the person paying taxes any percentage thereon, but may receive from the fund such percentage upon all moneys in his hands, or such fixed salary in lieu thereof as the county council by by-law may direct.

**168.** The county Treasurer shall prepare and submit to the county council, at its first session in January in each year, a report, certified by the auditors, of the state of the non-resident land fund.

**169.** The said report shall contain an account of all the moneys received and expended during the year ending on the thirty-first of December next preceding, distinguishing the sums received on account of, and paid to, the several municipalities, and received and paid on account of interest or debentures negotiated or redeemed, and the sums invested and the balance in hand; a list of all debentures then unpaid, with the dates at which they will become due; and a statement of all the arrears then due, distinguishing those due in every municipality; and the amount due on lands then advertised for sale, or which by law may be advertised, during the ensuing year.

**170.** The Warden shall cause a copy of the report to be transmitted to the Provincial Secretary for the information of the Lieutenant Governor.

**171.** Arrears of taxes due to cities or towns shall be collected and

and managed in the same way as like arrears due to other municipalities; and the Chamberlain or Treasurer, and Mayor, shall, for these purposes, perform in the case of cities and towns, the like duties as are hereinbefore, in the case of other municipalities, imposed on the Treasurer and Warden.

**172.** The Treasurer of every county, and the Treasurer or Chamberlain of every city and every town, shall be required to keep a triplicate blank receipt book, and, on receipt of any sum of money for taxes on land, shall deliver to the party making payment, one of such receipts, and shall deliver to the county, city or town Clerk, the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the Clerk at least every three months; and the county, city or town Clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the party making payment; the lot on which payment is made; the amount paid; the date of payment; and the number of the receipt; and the auditors shall examine and audit such books and accounts at least once in every twelve months.

County treasurers, etc., to keep triplicate blank receipt books.

Audit of books, etc.

#### RESPONSIBILITY OF OFFICERS.

**173.** Every Treasurer, Chamberlain and Collector, before entering on the duties of his office, shall enter into a bond to the corporation of the municipality for the faithful performance of his duties.

Security by treasurers and collectors.

**174.** Such bond shall be given by the officer and two or more sufficient sureties, in such sum and such manner as the council of the municipality by any by-law shall require in that behalf, and shall conform to all the provisions of such by-law.

Bond with sureties.

**175.** If any Treasurer, Assessor, Clerk or other officer refuses or neglects to perform any duty required of him by this Act, he shall, upon conviction thereof before any Court of competent jurisdiction in the county in which he is Treasurer, Assessor, Clerk or other officer, forfeit to Her Majesty such sum as the Court shall order and adjudge, not exceeding one hundred dollars.

Penalty on assessors or clerks failing to perform their duty, and how enforced.

**176.** If an Assessor neglects or omits to perform his duties the other Assessor, or other Assessors (if there be more than one for the same locality), or one of such Assessors, shall, until a new appointment, perform the duties, and shall certify upon his or their assessment roll the name of the delinquent Assessor, and also, if he or they know it, the cause of the delinquency; and any council may, after an Assessor neglects or omits to perform his duties, appoint some other person to discharge such duties; and the Assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office.

Other assessors may act for those in default.

**177.** If any Clerk, Treasurer, Assessor or Collector, acting under this

Punishment of this



clerks, assessors, etc., making fraudulent assessments, etc.

this Act, makes any unjust or fraudulent assessment or collection, or copy of any Assessor's or Collector's roll, or wilfully and fraudulently inserts therein the name of any person who should not be entered, or fraudulently omits the name of any person who should be entered, or wilfully omits any duty required of him by this Act, he shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding two hundred dollars, and to imprisonment until the fine be paid, or to imprisonment in the common gaol of the county or city for a period not exceeding six months, or to both such fine and imprisonment, in the discretion of the Court.

What shall be evidence of fraudulent assessments.

**178.** Proof, to the satisfaction of the jury, that any real property was assessed by the Assessor at an actual value greater or less than its true actual value, by thirty per centum thereof, shall be *prima facie* evidence that the assessment was unjust or fraudulent.

Punishment of culpable assessors.

**179.** An Assessor convicted of having made any unjust or fraudulent assessment, shall be sentenced to the greatest punishment, both to fine and imprisonment, allowed by this Act.

Penalty for not making and completing assessment rolls by the proper time.

**180.** With reference to the Upper Canada Jurors' Act, if an Assessor of any township, village or ward, neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the Clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll, on or before the first day of September of the year for which he is Assessor, every such Assessor so offending shall forfeit for every such offence the sum of two hundred dollars, one moiety thereof to the use of the municipality, and the other moiety, with costs, to such person as may sue for the same in any Court of competent jurisdiction by action of debt or information; but nothing herein contained shall be construed to relieve any Assessor from the obligation of returning his assessment roll, at the period required elsewhere by this Act, and from the penalties incurred by him by not returning the same accordingly.

Not to impair any other liability.

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.

**181.** If a Collector refuses or neglects to pay to the proper Treasurer or Chamberlain, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the Treasurer or Chamberlain shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the Sheriff of the county or city (as the case may be) commanding him to levy of the goods, chattels, lands and tenements of the Collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the Treasurer or Chamberlain the sum so unaccounted for, and to return the warrant within forty days after the date thereof.

**182.** The said Treasurer or Chamberlain shall immediately deliver the said warrant to the Sheriff of the county or city, as the case may require. Warrant to be delivered to sheriff, etc.

**183.** The Sheriff to whom the warrant is directed, shall, within forty days, cause the same to be executed and make return thereof to the Treasurer or Chamberlain, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of Courts of Record. Sheriff, etc., to execute it, and pay money levied.

**184.** If a Sheriff refuses or neglects to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the Treasurer or Chamberlain may, upon affidavit of the facts, apply in a summary manner, to either of the Superior Courts of Common Law in term time, or to any Judges of either Court in vacation, for a rule or summons calling on the Sheriff to answer the matter of the affidavit. Mode of compelling sheriff, etc., to pay over.

**185.** The said rule or summons shall be returnable at such time as the Court or Judge directs. When returnable.

**186.** Upon the return of such rule or summons, the Court or a Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matters of the application. Hearing on return.

**187.** If the Court or Judge be of opinion that the Sheriff has been guilty of the dereliction alleged against him, such Court or Judge shall order the proper officer of the Court to issue a writ of *fieri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town (as the case may be) for which the Collector is in default. Fi. Fa. to the coroner to levy the money.

**188.** Such writ shall direct the coroner to levy of the goods and chattels of the Sheriff the sum which the Sheriff was ordered to levy by the warrant of the Treasurer or Chamberlain, together with the costs of the application and of such writ and of its execution; and the writ shall bear date on the day of its issue, whether in term or vacation, and shall be returnable forthwith upon its being executed; and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. Tenor of such writ. Execution thereof. Fees.

**189.** If a Sheriff wilfully omits to perform any duty required of him by this Act, and no other penalty is hereby imposed for the omission, he shall be liable to a penalty of two hundred dollars, to be recovered from him in any court of competent jurisdiction at the suit of the Treasurer of the county or town or Chamberlain of the city. Penalty on sheriff if no other imposed.

Payment of money collected for the Province.

**190.** All money assessed, levied and collected for the purpose of being paid to the Receiver General of the Province of Canada, or to the Treasurer of the Province, or to any other public officer, for the public uses of the Province, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over, to the same persons, and in the same manner, and at the same time, as taxes imposed on the same property for county or city purposes, and shall, in law and equity, be deemed and taken to be moneys collected for the county, town or city, so far as to charge every Collector, Chamberlain or Treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of moneys assessed, levied and collected for the use of the city, town or county.

How money collected for county purposes to be paid over.

**191.** All moneys collected for county purposes, or for any of the purposes mentioned in the preceding section, shall be payable by the Collector to the township, town or village Treasurer, and by him to the county Treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county.

Collectors or treasurers bound to account for all moneys collected by them.

**192.** Any bond and security given by the Collector or Treasurer to the corporation of the township, town or village, that he will account for and pay over all moneys collected or received by him, shall apply to all moneys collected or received for county purposes, or for any of the purposes mentioned in the one hundred and ninety-first section.

Local treasurer to pay over county moneys to county treasurers.

**193.** The Treasurer of every township, town or village shall, within fourteen days after the time appointed for the final settlement of the Collector's rolls, pay over to the Treasurer of the county all moneys which were assessed and by law required to be levied and collected in the municipality for county purposes, or for any of the purposes mentioned in the one hundred and ninety-first section of this Act.

Mode of enforcing such payment.

**194.** If default be made in such payment, the county Treasurer may retain or stop a like amount out of any moneys which would otherwise be payable by him to the municipality, or may recover the same by a suit or action for debt against such municipality, or, whenever the same has been in arrear for the space of three months, he may, by warrant under his hand and seal, reciting the facts, direct the Sheriff of the county to levy and collect the amount so due with interest and costs from the municipality in default.

Warrant to sheriff.

How the sheriff to levy.

**195.** The Sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs as if the warrant had been a writ of execution issued by a Court of Law, and he shall levy the amount of costs and fees in the same manner as is provided.



provided by the *Act respecting the Municipal Institutions of Upper Canada*, in cases of writs of execution.

**196.** The county Treasurer and city Chamberlain, respectively, shall be accountable and responsible to the Crown for all moneys collected for any of the purposes mentioned in the one hundred and ninety-first section of this Act, and shall pay over such moneys to the Treasurer of the Province.

Treasurer, etc., to account for and pay over Crown moneys.

**197.** Every county, city and town shall be responsible to Her Majesty, and to all other parties interested, that all moneys coming into the hands of the Treasurer or Chamberlain of the county, city or town, in virtue of his office, shall be by him duly paid over and accounted for according to law.

Municipality responsible for such moneys.

**198.** The Treasurer or Chamberlain, and his sureties, shall be responsible and accountable for such moneys in like manner to the county, city, or town; and any bond or security given by them for the duly accounting for and paying over moneys coming into his hands, belonging to the county, city or town, shall be taken to apply to all such moneys as are mentioned in the one hundred and ninetieth section, and may be enforced against the Treasurer or Chamberlain, or his sureties, in case of default on his part.

Treasurer, etc., responsible to county, etc.  
Bonds to apply.

**199.** The bond of the Treasurer or Chamberlain and his sureties shall apply to school moneys, and all public moneys of the Province; and, in case of any default, Her Majesty may enforce the responsibility of the county, city or town, by stopping a like amount out of any public money which would otherwise be payable to the county, city or town, or to the Treasurer or Chamberlain thereof, or by suit or action against the corporation.

Bonds to apply to school moneys, etc.

**200.** Any person aggrieved by the default of the Chamberlain or Treasurer, may recover from the corporation of the city, county or town, the amount due or payable to such person as money had and received to his use.

City, etc., responsible for default of chamberlain, etc.

#### MISCELLANEOUS.

**201.** If any person wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, he shall, on conviction thereof in a summary way before any Justice of the Peace having jurisdiction in the county, city or town, be liable to a fine of twenty dollars, and, in default of payment, or for want of sufficient distress, to imprisonment not exceeding twenty days.

Penalty for tearing down notices, etc.

**202.** The fines and forfeitures authorized to be summarily imposed by this Act, shall, when not otherwise provided, be levied and collected by distress and sale of the offender's goods and

Recovery of fines, and forfeitures hereby imposed.

and chattels, under authority of a warrant of distress to be issued by a Justice of the Peace of the county, city or town; and, in default of sufficient distress, the offender shall be committed to the common gaol of the county, and be there kept at hard labour for a period not exceeding one month.

Application  
of penalties.

**203.** When not otherwise provided, all penalties recovered under this Act, shall be paid to the Treasurer or Chamberlain, to the use of the municipality.

#### REPEALING CLAUSE.

Chap. 55, Con.  
Stat. U.C.,  
and Acts am-  
ending it re-  
pealed.

**204.** The Assessment Act of Upper Canada hereby repealed, and all other Acts inconsistent with this Act, are hereby repealed, saving any rights, proceedings, or things legally had, acquired or done under such Acts or any of them, and all things begun but not completed thereunder may be continued to completion as validly, and with the same effect, as if this Act had not been passed; and all bonds and covenants made to any municipal corporation shall be as valid and binding as if made or given under this Act.

#### SCHEDULE A.

*Form of notice by non-resident owner of land requiring to be assessed therefor.*

To the Clerk of the municipality of

Take notice that I (*or we*) own the land hereunder mentioned, and require to be assessed, and have my name (*or our names*) entered on the Assessment Roll of the municipality of (*or ward of the municipality of* ) therefor.

That my (*or our*) full name (*or names*), place of residence, and post office address, are as follows :—

A. B., of the township of York, Shoemaker, Weston Post Office (*as the case may be*). Description of land (*here give such description as will readily lead to identification of the land*).

Dated the                      day of                      18 .

C. D.

Witness, G. H.

SCHEDULE B.

TOWNSHIP OF

NAMES AND DESCRIPTION OF PERSONS ASSESSED.					DESCRIPTION AND VALUE OF REAL PROPERTY.								PERSONAL PROPERTY AND INCOME.				AGGREGATE VALUE OF ALL PROPERTY.	STATUTE LABOR.	Dogs.	STATISTICS.						DATE OF DELIVERY OF NOTICE, UNDER SECTION 48.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26		
No. on roll.	Name of occupant or other taxable party.	Occupation.	Freeholder, householder or tenant.	Age of occupant.	Name and address of owner when person named in column two is not the owner.	Non-resident.	School section.	Concession, street, square or other designation.	No. of lot, house, etc.	No. of acres, feet, etc.	No. of acres cleared in townships, vacant or built on, or in cities, towns and villages.	Value of each parcel of real property.	Total value of real property.	Value of personal property other than income.	Taxable income.	Total value of personal property and taxable income.	Total value of real and personal property and taxable income.	Persons from 21 to 60 years old.	No. of day's labor.	Dogs.	Bitches.	No. of persons in family of person rated as resident.	Religion.	No. of cattle.	No. of sheep.	No. of hogs.	No. of horses.

Take notice that you are assessed as above specified, for the year 18 , under the statutes. If you deem yourself overcharged, or otherwise improperly assessed, you or your agent may notify the Clerk of the municipality in writing of such overcharge or improper assessment, within fourteen days after this notice has been left with you, and your complaint shall be tried, in conformity with the provisions of the statutes, by the Court of Revision for the municipality of

(ENDORSED.)

18

SIR,

Take notice that I intend to appeal against this assessment, for the following reasons:—  
I am, Sir, your obedient servant,



## SCHEDULE C.

*To all to whom these Presents shall come.*  
 We, \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ Esquire,  
 Warden and \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_  
 Esquire, Treasurer of the county of \_\_\_\_\_ send greeting:—

WHEREAS by virtue of a warrant under the hand of the Warden and seal of the said county, bearing date the \_\_\_\_\_ day \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, commanding the Treasurer of the said county to levy upon the land hereinafter mentioned, for the arrears of taxes due thereon with his costs, the Treasurer of the said county did, on the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_, sell by public auction to \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ in the county of \_\_\_\_\_ that certain parcel or tract of land and premises hereinafter mentioned at and for the price or sum of \_\_\_\_\_ of lawful money of Canada, on account of the arrears of taxes alleged to be due thereon up to the \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_, together with costs:

Now know ye that we, the said \_\_\_\_\_ and \_\_\_\_\_, as Warden and Treasurer of the said county in pursuance of such sale, and the Assessment Act of 1869, and for the consideration aforesaid, do hereby grant, bargain and sell unto the said \_\_\_\_\_ his heirs and assigns, all that certain parcel or tract of land and premises containing \_\_\_\_\_ being composed of *(describe the land so that the same may be readily identified.)*

In witness whereof, we, the said Warden and Treasurer of the said county, have hereunto set our hands and affixed the seal of the said county, this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand eight hundred and \_\_\_\_\_; and the Clerk of the county council hath countersigned.

A. B., Warden. [Corporate Seal.]  
 C. D., Treasurer.

Countersigned,  
 E. F., Clerk.

## SCHEDULE D.

*Form of declaration by party complaining in person of overcharge on personal property.*

I, A. B., *(set out name in full, with place of residence, business, trade, profession, or calling)*, do solemnly declare that the \_\_\_\_\_ true

true value of all the personal property assessable against me, (*or, as the case may be*), as trustee, guardian or executor, etc., without deducting any debts due by me in respect thereof is *(in case debts are owed in respect of such property)*; that I am indebted on account of such personal property, in the sum of \_\_\_\_\_; and that the true amount for which I am liable to be rated and assessed in respect of personal property, other than income, is \_\_\_\_\_.

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### SCHEDULE E.

*Form of declaration of party complaining in person of overcharge on account of taxable income.*

I, A. B., (*set out name in full, with place of residence, business, trade, profession or calling*), do solemnly declare that my gross income, derived from all sources, not exempt by law from taxation, is \_\_\_\_\_.

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### SCHEDULE F.

*Form of declaration by party complaining of overcharge in respect of personal property and taxable income.*

I, A. B., (*set out name in full, with place of residence, business, trade, profession, or calling*), do solemnly declare that the true value of my personal property other than income, is \_\_\_\_\_; *(if there are debts add, that I am indebted on account of such personal property in the sum of \_\_\_\_\_)*; that my gross income derived from all sources, not exempt by law from taxation, is \_\_\_\_\_; and that the full amount for which I am by law justly assessable, in respect of both personal property and income, is \_\_\_\_\_.

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### SCHEDULE G.

*Form of declaration by agent of a party complaining of overcharge on personal property.*

I, A. B., (*set out name in full, with place of residence, business, trade, profession or calling*), agent for C. D. (*set out name in full, with place of residence and calling of person assessed*), do solemnly declare that the true value of all the personal property assessable against the said C. D. (*or, as the case may be,*) as trustee, guardian, or executor, etc. is \_\_\_\_\_; *(In case there are debts in respect of the property add, the said C. D. is indebted on account of such personal property in the sum of \_\_\_\_\_)*; and that the true amount for \_\_\_\_\_

for which the said C. D. is liable to be rated and assessed in respect of personal property, other than income, is ;

and that I have the means of knowing, and do know, the extent and value of the said C. D.'s personal property and debts in respect thereof.

A. B.

#### SCHEDULE H.

*Form of declaration by agent of party complaining of overcharge in taxable income.*

I, A. B., (set out name in full, with place of residence, business, trade, profession, or calling), agent for C. D. (set out name in full, with places of residence, and calling of person assessed), do solemnly declare that the gross income of the said C. D., derived from all sources not exempt from taxation by law, is ;

and that I have the means of knowing, and do know, the income of the said C. D.

#### SCHEDULE I.

*Form of declaration by agent of party complaining of an overcharge in respect of personal property and taxable income.*

I, A. B., (set out name in full, with place of residence, business, trade, profession, or calling), agent for C. D. (set out name in full, with places of residence, and calling of person assessed), do solemnly declare that the true value of the personal property of the said C. D., other than income, is ;

that the gross income of the said C. D., derived from all sources not exempt by law from taxation, is ; and that the full amount

for which the said C. D. is justly assessable, in respect of both personal property and income, is ;

(If there are debts on account of the property add the said C. D. is indebted on account of such personal property in the sum of ; and that I have the means of knowing, and do know, the truth of the matters hereinbefore declared.



## CAP. XXXVII.

## An Act to Confer certain Powers on Trustees and Executors.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Trustees or executors having trust money in their hands, which it is their duty, or which it is in their discretion, to invest at interest, shall be at liberty, at their discretion, to invest the same in any stock, debentures or securities of the Government of the Dominion of Canada, or of this Province; and such trustees or executors shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same in any such stock, debentures or securities aforesaid, and also, from time to time, at their discretion, to vary any such investments as aforesaid, for others of the same nature; and any such moneys already invested in any such stock, debentures or securities as aforesaid, shall be held and taken to have been lawfully and properly invested.

Trustees or executors may invest trust moneys in stock or securities of Dominion or of Province.  
Investments already made to be held properly invested.

2. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition or any security, real or personal, for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and, for any of the purposes aforesaid, to enter into, give and execute such agreements, instruments of composition, releases and other things, as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Executors may pay debts, etc.;  
accept composition as security for same, etc.  
and compound same, etc.

3. This Act shall apply and extend to both present and future trustees and executors.

Act how to apply.

4. None of the powers hereby conferred shall take effect, or be exerciseable, by virtue of this Act, by any trustees or executors, if it is or has been expressly declared in the deed, will or other instrument creating such trustees or executors, that such trustees or executors shall not have such power.

When powers not to be exercised.

## CAP. XXXVIII.

An Act to Amend the Act entitled "An Act respecting the Survey of Lands in Upper Canada, now the Province of Ontario."

[Assented to 23rd January, 1869.]

Preamble.

Con.Stat.U.C.  
chap. 93, secs.  
26 and 27, and  
12 Vic., chap.  
35, sec. 36,  
amended.

WHEREAS sections twenty-six and twenty-seven of the Act chapter ninety-three of the Consolidated Statutes of Upper Canada, are intended to contain the same provisions as the thirty-sixth section of chapter thirty-five of the Acts passed in the twelfth year of Her Majesty's reign, but do not correctly preserve the enactment of the last mentioned section as to the mode of survey in cases in which the front line of a single-fronted concession has not been run in the original survey; and it is desirable to amend the said first mentioned Act, so as to correct the said error, and also so as to remove doubts as to the mode of running the side lines of the broken lots in those townships which are bounded in part, though not wholly, by a river or lake, where no posts or other boundaries were planted in the original survey on the bank of the river or lake, to regulate the width in front of the lots broken by the river or lake: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Secs. 26 and  
27, chap. 93,  
Con. Stat., U.  
C., and secs.  
78 and 79,  
chap. 77, Con.  
Stat. Can., re-  
pealed.

1. The twenty-sixth and twenty-seventh sections of chapter ninety-three of the Consolidated Statutes of Upper Canada, and the seventy-eighth and seventy-ninth sections of chapter seventy-seven of the Consolidated Statutes of Canada, are hereby repealed.

New enact-  
ments and  
their provi-  
sions.

2. The following words shall be substituted in place of, and shall be read as, the twenty-sixth section of chapter ninety-three of the Consolidated Statutes for Upper Canada, and as the seventy-eighth section of chapter seventy-seven of the Consolidated Statutes of Canada, namely, "The front of each concession in any township, in Upper Canada, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the township from which the several concessions thereof are numbered; and when the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, parallel to the governing line determined as aforesaid, to the depth of the concession, that is to the centre of the space contained between the lines in front of the adjacent concessions, if the

"concessions

"concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey, as shown on the plan and field notes thereof of record in the office of the Commissioner of Crown Lands, having due respect to any allowance for a road or roads made in the original survey; and a straight line joining the extremities of the division or side lines of any lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey."

3. The following words shall be substituted in place of, and shall be read as, the twenty-seventh section of chapter ninety-three of the Consolidated Statutes of Upper Canada, and as the seventy-ninth section of chapter seventy-seven of the Consolidated Statutes of Canada:—"In those townships in Upper Canada which are bounded in front by a river or lake, where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof parallel to the governing line, determined as aforesaid, to the river or lake in front."

Sec. 27, chap.  
93, Con. Stat.,  
U. C., and  
sec. 79, chap.  
77, Con. Stat.,  
C., are re-  
pealed.

## CAP. XXXIX.

An Act to Amend the Act passed in the Twenty-seventh and Twentieth years of Her Majesty's Reign, respecting the granting of Charters of Incorporation to Manufacturing, Mining and other Companies.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The tenth subsection of the first section of the twenty-third chapter of the Acts passed in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, is hereby amended by the addition of the words "or for the deepening of any stream, creek or water-course, or the draining of any locality," to be inserted after the word "Railway" in the last line of the tenth subsection.

27 and 28 Vic.,  
chap. 23, sub-  
sec. 10 amend-  
ed.



## CAP. XL.

## An Act to Exempt Certain Articles from Toll.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS by the Act of the Parliament of the late Province of Canada, being chapter eighty-six of the Consolidated Statutes of Canada, section three, vehicles laden solely with manure are allowed to pass free of toll through every turnpike gate or toll gate on any turnpike road within twenty miles of any city or incorporated town, and such exemption from toll is not mentioned in the Act, being chapter forty-nine of the Consolidated Statutes of Upper Canada; and whereas doubts have arisen as to whether tolls can be legally collected or not in such case, and it is desirable that such doubts should be removed, and the right to such exemption from toll authoritatively declared: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Vehicles laden  
with manure  
to pass free of  
toll through  
turnpike gates.

1. Notwithstanding anything in the last mentioned Act contained, from and after the passing of this Act, every vehicle laden solely with manure brought from any city, town or incorporated village in the Province of Ontario, and employed to carry such manure into the country parts, for the purpose of agriculture, and the horse or horses, or other beasts of draught, drawing such vehicle shall pass toll free through every turnpike gate or toll gate on any turnpike or macadamized road within twenty miles of such city, town or incorporated village, as well in going from such city, town or incorporated village, as in returning thereto, if then empty.

## CAP. XLI.

## An Act to Amend the Act Chapter forty, Twenty-nine Victoria, entitled “An Act to prevent the spreading of Canada Thistles in Upper Canada.”

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS it is desirable to amend the Act relating to the spread of Canada thistles in Upper Canada: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Overseer to

1. Notwithstanding anything in the said Act contained, it shall

shall not be lawful for any overseer of highways to enter upon any of the duties therein imposed, without having first obtained authority from the municipal corporation of which he is an officer.

have authority  
from council.

2. It shall be lawful for all municipal corporations in the Province of Ontario to authorize the carrying out of the provisions of the said Act.

Municipal  
corporations  
to carry out  
Act.

## CAP. XLII.

An Act to Amend an Act of the late Province of Canada entitled "An Act for the Collection, by means of Stamps, of Fees of Office, Dues and Duties, payable to the Crown upon Law proceedings and Registrations."

[Assented to 23rd January, 1869.]

WHEREAS it is expedient to make provision for the collection by the Treasurer of Ontario, of the fees and charges mentioned and referred to in the Act passed in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chapter five, in so far as the same are payable to the Crown, for or upon any proceedings or matter in that part of the late Province of Canada, formerly called Upper Canada, now constituting the Province of Ontario: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. From and after this Act shall come into force, in so far as the said in part recited Act applies to what is now the Province of Ontario, the words or expressions therein used "the Governor in Council" shall mean "the Lieutenant Governor in Council of the Province of Ontario;" "Upper Canada" shall mean "the Province of Ontario;" and "the Finance Minister" and "the Receiver General" shall mean "the Treasurer of Ontario."

Interpretation  
clause.

2. From and after this Act shall come into force, the Executive Government of this Province shall take charge of the said fees and charges in the said in part recited Act mentioned or referred to, in so far as the same arise or are payable in this Province, and, under the provisions of the same Act, as amended by this Act, shall have the absolute control and management thereof, any statute, law, usage or custom to the contrary notwithstanding.

Government  
to take charge  
of fees, etc.

3. This Act shall not come into operation until the Lieutenant Governor in Council shall, by proclamation to be published in

Commence-  
ment of Act.

in the *Ontario Gazette*, declare that on and after a day therein to be named, this Act shall come into force; and it shall be lawful for the Lieutenant Governor in Council to issue the proclamation aforesaid at any time after the passing of this Act.

### CAP. XLIII.

#### An Act to Amend the Municipal Institutions Act of Upper Canada.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Certain sections of 29 and 30 Vic., chap. 51, repealed.

1. Sections fifty-one, two hundred and eighty-one, two hundred and eighty-two, with the sub-sections to the last named section, and sub-section three of section two hundred and eighty-six of the Act passed in the twenty-ninth and thirtieth years of Her Majesty's reign, chapter fifty-one, are hereby repealed, and the following sections and sub-sections shall and are hereby substituted in lieu thereof, and shall be taken and read in place of the said sections and sub-sections hereby repealed; that is to say, in lieu of the said section two hundred and eighty-one, the following:—"In case a majority in number of the resident or other owners of the property to be benefited, in any part of any municipality, do petition the council for the deepening of any stream, creek or water course, or for draining of the property (describing it), the council may procure an examination to be made by an engineer, or other competent person, of the stream, creek or water course proposed to be deepened, or of the property proposed to be drained, and may procure plans and estimates to be made of the work by such engineer or person."

New enactments and their provisions.

2. In lieu of section two hundred and eighty-two and sub-sections, the following:—"If the council be of opinion that the deepening of such stream, creek, or water-course, or the draining of the locality described, or a portion thereof, would be desirable, the council may pass a by-law—

To deepen streams, etc.

(1.) For providing for the deepening of the stream, creek or water-course, or the draining of the locality.

To assess, etc., special rates for repayment of debentures issued for improvements, etc.

(2.) For assessing and levying, in the same manner as taxes are levied, upon the real property to be benefited by the deepening or draining, a special rate sufficient to include a sinking fund for the repayment of the debentures which such councils are hereby authorized to issue in such cases, respectively, to provide



provide funds for such improvement, and for so assessing and levying the same, as other taxes are levied, by an assessment and rate on the real property so benefited, as nearly as may be to the benefit derived by each lot or portion of lot and road in the locality: Provided always, that any person whose property has been assessed for such deepening or drainage may pay the amount of such assessment, less the interest, at any time before the debentures are issued: Provided also, that any agreement on the part of any tenant to pay the rates or taxes of the demised property, shall not apply to or include the charges or assessments for draining under this Act, unless such agreement shall, in express terms, mention or refer to such charges or assessments.

Proviso.

Proviso.

(3.) For regulating the times and manner in which the assessment shall be paid.

To regulate payment of assessment.

(4.) For ascertaining and determining, through the engineer or person aforesaid, what real property will be benefited by the deepening or draining, and the proportion in which the assessment should be made on the various portions of lands so benefited, and subject in every case to an appeal to the Council and the County Court Judge.

To ascertain, etc., property benefited.

3. But the by-law shall not be valid unless, before the final passing thereof, the same has been published once or oftener in every week for six weeks in some newspaper in the municipality, or, if no newspaper be published therein, then in some newspaper published in the nearest municipality in which a newspaper is published, together with a notice that any one intending to apply to have such by-law, or any part thereof, quashed, must make his application for that purpose to one of Her Majesty's Superior Courts of Law at Toronto, during the term next ensuing the final passing of the by-law.

By-law to be published.

4. The council shall, on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, hold a Court of Appeal, notice of which shall be published with the by-law during the first four weeks of its publication, and, in case of an appeal to the County Judge, he shall hear and determine the matter in dispute not later than ten days from the day on which the council held their Court of Appeal.

Court of Appeal.

5. In case no application to quash a by-law be made within the time limited for that purpose in the third sub-section of this section, the by-law, or so much thereof as is not the subject of any such application, or not quashed upon such application, shall, notwithstanding any want of substance or form, either in the by-law itself, or in the time or manner of passing the same, be a valid by-law.

If no appeal by-law valid.

6. Whenever it is necessary to continue the deepening or drainage

Effect of drain-drainage

age being continued beyond municipality.

drainage aforesaid beyond the limits of any municipality, the engineer or other competent person employed by the council of such municipality, may continue the survey and levels into the adjoining municipality, until he finds fall enough to carry the water beyond the limits of the municipality in which the deepening or draining was commenced.

When not so continued.

7. When the deepening and drainage do not extend beyond the limits of the municipality in which they are commenced, but, in the opinion of the engineer or other competent person aforesaid, benefit lands in an adjoining municipality, or greatly improve any road lying within any municipality, or between two or more municipalities, then the engineer or other competent person aforesaid, shall charge the lands to be so benefited, and the corporation or corporations whose road or roads are improved, with such proportion of the costs of the work as he may deem just; and the amount so charged for roads, or agreed upon by the arbitrators, shall be paid out of the general funds of such municipality.

Engineer to determine at whose expense,

8. The engineer or other competent person aforesaid, shall determine and report to the council by which he was employed, whether the deepening or drainage shall be constructed and maintained solely at the expense of such municipality, or whether it shall be constructed and maintained at the expense of both municipalities, and in what proportion.

and make plans.

9. The engineer or other competent person aforesaid, when necessary, shall make plans and specifications of the deepening or drainage to be constructed, and charge the lands to be benefited by the work as provided herein.

Council to serve report on head of municipality benefited, etc.

10. The council of the municipality in which the deepening or drainage is to be commenced, shall serve the head of the council of the municipality into which the same is to be continued, or whose lands or roads are to be benefited without the deepening or drainage being continued, with a copy of the report, plans and specifications of the engineer or other competent person aforesaid, when necessary, so far as they affect such last mentioned municipalities, and, unless the same is appealed from as hereinafter provided, it shall be binding on the council of such municipality.

Council to pass by-law, within four months, to raise sum named in engineer's report.

11. The council of such last mentioned municipalities shall, within four months from the delivery to the head of the corporation, of the engineer's or other competent person's report, as provided in the next preceding section, pass a by-law in the same manner as if a majority of the resident or other owners of the lands to be taxed had petitioned, as provided in the two hundred and eighty-first section of the said Act, to raise such sum as may be named in the engineer's report, or, in case of an appeal, for such sum as may be determined by the arbitrators.

**12.** The council of the municipality into which the deepening or drainage is to be continued, or whose lands, road or roads are to be benefited, without the deepening or drainage being carried within its limits, may, within thirty days from the day in which the report was served on the head of the municipality, appeal therefrom, in which case they shall serve the head of the corporation from which they received the report, with a written notice of appeal; and such notice shall state the grounds of appeal, the name of an engineer or other person as their arbitrator, and call upon such corporation to appoint an arbitrator in the matter on their behalf, within ten days after the service of such notice; and, in default thereof, it shall be lawful for the council of the municipality appealing therefrom, to appoint such second arbitrator; and the two arbitrators so appointed shall forthwith appoint a third arbitrator in the matter: Provided always, that in no case shall the engineer or other competent person aforesaid, employed to make surveys, plans and specifications, or a member or officer of any council concerned, be appointed or act as arbitrator.

Council of benefited municipality may appeal.

Proviso.

**13.** If, after the arbitrators have been appointed as aforesaid they fail or neglect, for the space of six days, to appoint a third arbitrator, the Judge of the County Court of the county in which the municipality appealing is situated, shall, within four days after a request in writing made upon him by either of the two arbitrators appointed as above provided, appoint a third arbitrator.

Judge to appoint third arbitrator on default.

**14.** The arbitrators before proceeding to try the matter of the arbitration shall take and subscribe the following oath (or, in case of those who affirm, make and subscribe the following affirmation) before any Justice of the Peace: "I, A. B., do swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises according to the evidence, and my skill and knowledge; so help me God;" which oath or affirmation shall be filed with the award.

Arbitrators to be sworn.

Their oath.

**15.** The arbitrators shall, within ten days after the appointment of the third arbitrator, meet at such place as they may agree upon, and shall then hear and determine the matter in dispute and make their award in triplicate, which shall be binding on all parties, and one copy thereof shall be filed with the Clerk of each of the municipalities interested, and one shall be filed with the Registrar of deeds for the county in which either of the municipalities is situate.

Arbitrators to meet in ten days.

**16.** In case of difference between the arbitrators, the decision of any two of them shall be conclusive.

Majority to decide.

**17.** After such deepening or drainage is fully made and completed, it shall be the duty of each municipality, in the proportion

Drainage, etc., to be main-



tained and by whom.

portion determined by the engineer or arbitrators (as the case may be), or until otherwise determined by the engineer or arbitrators, under the same formalities as near as may be, as provided in the preceding sections, to preserve, maintain and keep the same within its own limits, either at the expense of the municipality, or parties more immediately interested, or at the joint expense of such parties and the municipality, as to the council, upon the report of the engineer or other competent person, may seem just; and any such municipality neglecting or refusing so to do, upon reasonable notice in writing being given by any party interested therein, shall be compelled, by mandamus to be issued from any Court of competent jurisdiction to make, from time to time, the necessary repairs to preserve and maintain the same, and shall be liable to pecuniary damage to any person who or whose property shall be injuriously affected by reason of such neglect or refusal.

Provision as to drains used by others.

2. Should a drain already constructed, or hereafter constructed, be used as an outlet, or otherwise by another municipality, company or individual, such municipality, company or individual using the same as an outlet or otherwise, may be assessed for the construction and maintenance thereof in such proportion and amount as shall be ascertained by the engineer or arbitrators, under the formalities provided in the preceding sections.

Case of separation of junior from united counties.

18. In lieu of the said section fifty-one, the following: "After such appointments are made, the Governor shall, by proclamation, separate the junior county from the senior or remaining county or counties, and shall declare such separation to take effect on the first day of January next, after the end of three months from the date of the proclamation, and, on that day, the courts and officers of the union shall cease to have any jurisdiction in the junior county; and the property of the corporation of the union, situate in the junior county, shall become the property of the corporation of the junior county; and the property situate in the remaining county, or united counties, shall be the property of the corporation of the remaining county, or united counties; and the assets and choses in action, belonging to the corporation of the union, shall belong to and be the property of either the senior or junior county, or union of counties, as agreed upon at the separation; and, in the absence of any agreement, they shall belong to and be the property of the senior county, or union of counties; and, in the case of choses in action, they may be recovered in a suit, action, or other legal proceeding instituted or commenced in the name of the senior county, or union of counties: Provided always, that nothing herein contained shall prevent the Sheriff of any such senior county from proceeding upon and completing the execution or service within the junior county of any writ of mesne or final process in his hands at the time of such separation, or of any renewal thereof, or of any subsequent or supplementary writ in

Proviso.

in the same cause, or, in the case of executions against lands, from executing all necessary deeds and conveyances relating to the same; and the acts of all such Sheriffs in that behalf shall be, and be held and construed to be, legal and valid in the same manner, and to the same extent, as if no separation had taken place, but no further.

**19.** In lieu of the said sub-section three of section two hundred and eighty-six, the following:—"For licensing, regulating and governing hawkers or petty chapmen, and other persons carrying on petty trades, who have not become permanent residents in the county or city, or who go from place to place, or to other men's houses on foot, or with any animal bearing or drawing any goods, wares or merchandise for sale, or in or with any boat, vessel or other craft, or otherwise, carrying goods, wares or merchandise for sale, and for fixing the sum to be paid for a license for exercising such calling within the county or city, and the time the license shall be in force, and for providing the township Clerks with licenses in this and the previous section mentioned, for sale to parties applying for the same in the township, under such regulations as may be prescribed in such by-law; but no duty shall be imposed for hawking or peddling any goods, wares or merchandise, the growth, produce or manufacture of this Province, not being liquors, within the meaning of the law relating to taverns or tavern licenses." Licensing hawkers, etc.

**20.** The council of any municipality may pass by-laws for granting aid to any adjoining municipality in making, opening, maintaining, widening, raising, lowering, or otherwise improving any highway, road, street, bridge, or communication passing from or through an adjoining municipality. By-laws to aid adjoining municipality to open drains, etc.

**21.** In lieu of the word "one-third" in the proviso to section two hundred and seventy-two of the said first mentioned Act, the word "two-thirds" shall be substituted. Sec. 272 amended.

**22.** Section thirty-three of the Act amending municipal institutions, passed in the first session of the present year, is hereby amended by adding, at the end of the said clause thirty-three, the words following:—"and, for that purpose, the said Board of commissioners of police may pass by-laws, and enforce the same, in the manner and to the extent formerly conferred upon the city council, under the authority of the Municipal Act of 1866." 31 Vic., chap. 30, sec. 33, amended.

## CAP. XLIV.

## An Act to Amend the Act respecting Common Schools in Upper Canada.

[Assented to 23rd January, 1869.]

Preamble.

**W**HEREAS the Board of school trustees for the city of Toronto have, by their petition, applied for certain amendments to the Common School Act, so far as regards the election of school trustees in the city of Toronto, and it is expedient to grant their prayer: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Annual meeting for election of trustees.

**1.** The annual meeting for the election of school trustees, as hereinafter provided, shall be held in the city of Toronto, on the second Wednesday in January in each year, commencing at the hour of nine o'clock in the morning, and shall continue open until five of the clock in the afternoon, and no longer.

Nomination meeting on last Wednesday in December.

**2.** A meeting of the electors for the nomination of candidates for the offices of school trustees shall take place at noon, on the last Wednesday in December annually, or on the day following, should the same be a holiday, in each ward or electoral division thereof, at such places therein as shall, from time to time, be fixed by the Board of school trustees respectively.

Notice thereof.

**2.** The returning officer for each ward or electoral division in cities and towns, or, in his absence, the chairman to be chosen by the meeting, shall preside; and the Secretary of the Board of school trustees in each city and town shall give at least six days' notice of such meeting.

When no more candidates than offices.

**3.** If only the necessary number of candidates to fill the vacant offices shall be proposed and seconded, the returning officer or chairman shall, after the lapse of one hour, declare such candidates duly elected.

When more proposed and poll demanded.

**4.** If more than the necessary number of candidates be proposed, and a poll is demanded by any candidate or elector, the returning officer or chairman shall adjourn the proceedings until the second Wednesday in January, when a poll shall be opened in each ward for the election, at nine of the clock in the morning, and shall continue open until five of the clock in the afternoon, and no longer.

Voters' lists.

**3.** The Clerk of the town or city shall, not later than the Monday preceding the day of election, deliver to the Secretary of the Board of school trustees a list of the names, alphabetically



cally arranged, of all the freeholders and householders rated upon the then last revised assessment roll, and not supporters of separate schools, for each ward, and shall attest the said list by his solemn declaration.

4. The Secretary of the Board of school trustees shall provide the returning officer of every ward or electoral division with the said list and a poll book; and, at every election at which a poll is demanded, the returning officer, or his sworn poll clerk, shall enter in such book in separate columns the names of the candidates proposed and seconded at the nomination, and shall, opposite to such columns, write the names of the electors offering to vote at the election, and shall, in each column on which is entered the name of a candidate voted for by a voter, set the figure "1" opposite the voter's name, with the residence of the voter.

Poll books and how kept.

5. The returning officer or chairman may administer all oaths or affirmations necessary at the election.

Returning officer to administer oaths, etc.

6. In case an objection be made to the right of any person to vote at any election in any city, town or village, or upon any other subject connected with school purposes therein, the returning officer presiding at the election shall require the person whose right of voting is objected to, to make the following declaration or affirmation: "I, A. B., do declare and affirm that I have been rated on the assessment roll of this ward (or electoral division in Towns) as a freeholder (or householder, as the case may be); that I am the person whose name appears on the assessment roll; and that I am of the full age of twenty-one years and not a supporter of separate schools;" whereupon the person making such declaration shall be permitted to vote.

Challenging voters.

Declaration of voters.

7. In case of two or more candidates having an equal number of votes, the returning officer, whether otherwise qualified or not, shall give a vote for one of such candidates so as to decide the election; and, except in such case, no returning officer shall vote at any election held by him.

When returning officer to have casting vote.

2. The returning officer shall, on the day after the close of the election, return the poll book to the Secretary of the Board of school trustees, and also his solemn declaration thereto annexed, that the poll book contains a true statement of the poll and his certificate of the person (naming him) who had been duly elected.

Poll books to be returned to clerk.

8. The Judge of the County Court shall, within twenty days after the election of a common school trustee in the said city of Toronto, receive and investigate, and in a summary manner, upon complaint lodged respecting the validity of a mode of conducting the election, hear and determine the same; and may by order cause the assessment rolls, collector's rolls, poll

Proceedings at contested elections.

poll books and any other records of the election to be brought before him, and may inquire into the facts on affidavit or affirmation, or by oral testimony, and cause such person or persons to appear before him, as he may deem expedient, and confirm the same; or in case the election complained of be adjudged invalid, the Judge forthwith by writ shall cause the person so found not to have been duly elected to be removed; and, in case the Judge determines that any other person was duly elected, the Judge shall forthwith order a writ to issue causing such other person to be admitted; and, in case the Judge determines that no other person was duly elected instead of the person removed, the Judge shall by the writ cause a new election to be held, and shall appoint the time and place of holding such election.

Chap. 65, sec.  
1, Con. Stat.  
U. C., amend-  
ed.

9. The following proviso shall be added to section one of chapter sixty-five of the Consolidated Statutes of Upper Canada, and be taken and read as part thereof: "Provided always, that no person shall be deemed a supporter of any separate school for coloured people, unless he resides within three miles in a direct line of the site of the school house for such separate school; and any coloured child residing farther than three miles in a direct line from the said school house, shall be allowed to attend the common school of the section within the limits of which the said child shall reside."

Inconsistent  
Acts; repealed.

10. All Acts and parts of Acts inconsistent with the provisions of this Act, so far as they shall affect this Act, but not to any greater extent, are hereby repealed.

## CAP. XLV.

An Act to Amend and Consolidate the Acts relating to the Profession of Medicine and Surgery.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS it is expedient to amend and consolidate the Acts relating to the medical profession, and to make more effectual provision for regulating the qualifications of practitioners of medicine, surgery and midwifery, and to incorporate the medical profession of Ontario: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Acts 29 Vic.,  
chap. 34; chap.  
41, Con. Stat.  
U. C.;

1. The Act of the Parliament of the late Province of Canada, twenty-nine Victoria, chapter thirty-four; the Act chapter forty-one of the Consolidated Statutes of Upper Canada; the Act passed

passed in the twenty-fourth year of Her Majesty's reign, chapter one hundred and ten; and all Acts amending any of the said Acts, are hereby repealed; and the provisions of this Act shall stand in the place of the provisions of the said Acts; but all proceedings heretofore taken, and all matters and things done under the said Acts, shall be valid and effectual notwithstanding such repeal, and may be carried on and completed under this Act as effectually as they could have been under the said Acts.

24 Vic., chap. 110; and Acts amending same, repealed.

2. The Council and Boards established, and the members thereof elected under the provisions of the Acts repealed, shall be continued, and shall act until after the first election as herein-after provided, but subject in all other respects to the provisions of this Act; and all by-laws, rules and regulations heretofore made by the said Council and Boards, shall remain in force until repealed or modified under the provisions of this Act.

Council and Boards previously elected, and by-laws, etc., to be continued, etc.

3. The officers appointed under the provisions of the Act first above mentioned, shall retain their respective offices, and perform their respective duties under the provisions of this Act; and all books and registers heretofore kept by them in conformity with the Act hereby repealed, shall be continued in use for their respective purposes under this Act.

Officers formerly appointed to retain office, etc.

4. The repeal of the said Act twenty-nine Victoria, chapter thirty-four, of the late Province of Canada, shall not have the effect of reviving the Acts repealed by it, nor of modifying or restricting in any way whatsoever, the saving effect of the thirty-sixth section thereof.

Repealed Acts not revived.

5. This Act may be cited as "The Ontario Medical Act."

Title of Act.

6. The medical profession of Ontario is hereby incorporated under the name and style of "The College of Physicians and Surgeons of Ontario," and shall have a corporate seal; and every person registered according to the provisions of the Act twenty-nine Victoria, chapter thirty-four, and the Acts amending the same, shall be, and is hereby made a member of the said College of Physicians and Surgeons of Ontario; and every person who may be registered hereafter, under the provisions of this Act, shall be a member of the said College.

College of Physicians and Surgeons of Ontario.

7. There shall be a "Council of the College of Physicians and Surgeons of Ontario," to be appointed in the manner hereinafter provided for in this Act, and referred to in this Act as the "Council."

Council of Ontario, etc.

8. The Council shall be composed as follows: Of one member to be chosen from each of the Colleges and bodies hereinafter designated, to wit: University of Toronto, Queen's University and College of Kingston, University of Victoria College, University of Trinity College, Royal College of Physicians and Surgeons

How composed.



Proviso.

Surgeons of Kingston, Toronto School of Medicine, and of every other College or body in the Province now by law authorized, or which may be hereafter authorized, to establish a Medical Faculty in connection therewith, and to grant degrees in medicine and surgery, or other certificates of qualification to practise the same: Provided always, that no teacher, professor or lecturer of any of the before mentioned colleges or bodies shall hold a seat in the Council except as a representative of the college or body to which he belongs.

Additional members thereof.

2. There shall also belong to the said Council five members to be elected by the duly licensed practitioners in Homœopathy, who have been registered under this Act; and five members to be elected by the duly licensed practitioners in the Eclectic system of medicine, who have been registered under this Act.

Certain members to be residents of territorial divisions.

3. The twelve members who shall be elected in the manner hereinafter provided from amongst and by the registered members of the profession, other than those mentioned in the next preceding sub-section, shall be residents of the several territorial divisions for which they are elected.

Members to be registered practitioners.

9. All members of the Council, representing the colleges or bodies in the eighth section mentioned, shall be practitioners duly registered under this Act, or the before mentioned Act.

One from each territorial division, etc.

10. Of the twelve members to be elected from amongst the registered practitioners of medicine in the Province of Ontario, one shall be so elected for each of the territorial divisions mentioned in schedule C to this Act annexed, by the registered practitioners resident in such division; and the manner of holding such election shall, with respect to the time thereof, and the taking of the votes therefor, be determined by a by-law to be passed at the next meeting of the Council; and, in default of such by-law being made, then the Lieutenant Governor shall prescribe the time and manner of such election.

Provision as to period of election, and as to resignation, death, etc., of members of council.

11. The members of the Council shall be elected or appointed, as the case may be, for a period of three years; but any member may resign his appointment at any time by letter addressed to the President or Registrar of the Council; and upon the death or resignation of any member of the Council, it shall be the duty of the Registrar forthwith to notify the college or body, wherein such vacancy may occur, of such death or resignation, and such college or body shall have the power to nominate another duly qualified person to fill such vacancy; or if the vacancy be caused by the death or resignation of any member elected from the territorial divisions, the Registrar shall forthwith cause a new election to be held in such territorial division by a notice to be published in the *Ontario Gazette*, and in at least three newspapers, published in the said division, for at least one month, fixing the time and place for holding such election;

tion; and such election shall be conducted in accordance with the by-laws and regulations of the Council; but it shall be lawful for the Council during such vacancy to exercise the powers hereinafter mentioned.

2. In the event of the death or resignation of any member of the Council representing the practitioners in Homœopathy or the Eclectic system of medicine, it shall be lawful for the remaining representatives of Homœopathy or the Eclectic system of medicine in the Council to fill such vacancy by selecting a person from among the duly registered practitioners in Homœopathy or the Eclectic system of medicine, as the case may be.

Provision in case of death, etc., of representative of Homœopathic or Eclectic systems.

12. The first election under this Act for members to represent the territorial divisions in the Council, shall take place on the second Tuesday in June, one thousand eight hundred and sixty-nine, at such places in the several divisions as shall be fixed by by-law of the Council; and it shall be the duty of the Registrar to cause a notice of the time and place for holding the said elections to be published in the *Ontario Gazette*, and in at least three newspapers in each of the said divisions for at least one month before the said second Tuesday in June.

First election.

2. The first election under this Act for members to represent the duly licensed and registered practitioners in Homœopathy and the Eclectic system of medicine in the Council, shall take place on the second Tuesday in June, one thousand eight hundred and sixty-nine, in such manner and at such place or places as shall be fixed by by-law of the Council; and it shall be the duty of the Registrar to cause a notice of the time and place for holding the said elections, to be published in the *Ontario Gazette* for at least one month before the said second Tuesday in June; and, in default of such by-law being made, then the Lieutenant Governor shall prescribe the terms and manner of such election.

First election of representatives of Homœopathic and Eclectic systems.

13. The said newly elected members of the Council, as well as all members of the Councils to be hereafter elected, shall, together with the members to be appointed by the several colleges and bodies as mentioned in section eight of this Act, hold their first meeting on the second Wednesday in July next after the said election in the city of Toronto, at such place as may be fixed by by-law of the retiring Council.

First meeting of newly elected council.

14. Every subsequent election shall be held on the second Wednesday in June, in every third year after the said first election, in the same manner as is provided for holding the first election as aforesaid.

Subsequent elections.

15. The persons entitled to vote at any election under this Act, shall be the practitioners duly registered under this Act.

Who entitled to vote.



Time, place,  
etc., of hold-  
ing meetings.

Future meet-  
ings.

Proviso.

Quorum.

Expenses of  
members.

Officers of col-  
lege, etc.

Funds to be  
paid to trea-  
surer.

**16.** The Council shall hold its first meeting under this Act in Toronto, and at such time and place as the President of the Council, or, in case of his absence or death, the Registrar for the time being shall appoint therefor, and shall make such rules and regulations as to the times and places of subsequent meetings of the Council, and the mode of summoning the same, as to them shall seem expedient, which rules and regulations shall remain in force till altered at any subsequent meeting; and, in the absence of any rule or regulation as to the summoning of future meetings of the Council, it shall be lawful for the President thereof, or, in the event of his absence or death, for the Registrar to summon the same, at such time and place as to him shall seem fit, by circular letter to be mailed to each member: Provided always, that at least two weeks' notice of such meeting be given; and, in the event of the absence of the President from any meeting, the Vice-President, or, in his absence, some other member to be chosen from among the members present, shall act as President; and all the acts of the Council shall be decided by the majority of the members present, the whole number not being less than nine; and at all meetings, the President, for the time being, shall have a casting vote only.

**17.** There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as shall, from time to time, be fixed by by-law passed by the said Council.

**18.** The Council shall annually appoint a President, Vice-President, and a Registrar and Treasurer, who shall hold office during the pleasure of the Council, and such other officers as may, from time to time, be necessary for the working of this Act; and the said Council shall have power to fix by by-law or from time to time, the salary or fees to be paid to such Registrar and Treasurer, and to the Board of Examiners hereafter appointed.

**19.** All moneys forming part of the Council funds, shall be paid to the treasurer, and shall be applied to carry this Act into execution.

#### MEDICAL REGISTRATION.

Register book  
to be kept  
containing  
names of all  
persons com-  
plying with  
Act.

**20.** The Council shall cause to be kept by an officer appointed by them, and to be called the Registrar, a book or register in which shall be entered, from time to time, the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in this Province; and those persons only whose names have been, or shall hereafter be, inscribed on the book or register above mentioned, shall be deemed to be qualified and licensed to practise



tise medicine, surgery or midwifery in the Province of Ontario, except as hereinafter provided; and such book or register shall at all times be open, and subject to inspection by any duly registered practitioner in Ontario, or by any other person.

**21.** It shall be the duty of the Registrar to keep his register correct, in accordance with the provisions of this Act, and the rules, orders and regulations of the Council, and to erase the names of all registered persons who shall have died; and he shall, from time to time, make the necessary alterations in the addresses or qualifications of the persons registered under this Act; and, to enable him duly to fulfil the duties imposed on him, it shall be lawful for him to write a letter to any registered person, addressed according to the address of such person on the register, to enquire whether he has ceased to practise or has changed his residence; and, if no answer shall be returned to such letter within the period of six months from the sending of such letter, it shall be lawful for the Registrar to erase the name of such person from the register: *Provided always, that the same shall be restored by direction of the Council, upon cause duly shewn to that effect; and the said Registrar shall perform such other duties as shall be imposed upon him by the Council.*

*Duty of registrar.*

*Proviso.*

**22.** Every person now possessed, or who may, within the period of six months from the passing of this Act, become possessed, of any one or more of the qualifications described in the schedule A to this Act, shall, on the payment of a fee, not exceeding ten dollars, be entitled to be registered, on producing to the Registrar the document conferring or evidencing the qualification, or each of the qualifications in respect whereof he seeks to be so registered, or upon transmitting by post to the Registrar, information of his name and address, and evidence of the qualification or qualifications in respect whereof he seeks to be registered, and of the time or times at which the same was or were respectively obtained; and any person entitled to be registered before the first day of July, one thousand eight hundred and sixty-five, may, on complying with the requirements in this section mentioned, obtain such registration on payment of a fee of five dollars: *Provided he register within one year after the passing of this Act: Provided also, no one registered under the Act first above mentioned shall be liable to pay any fee for being registered under this Act.*

*Provision for registry of all persons properly qualified.*

*Proviso.*

*Proviso.*

**23.** Every person desirous of being registered under the twentieth section of this Act, and who shall not have become possessed of any one of the qualifications in the said schedule A mentioned, before the expiration of the period of six months after the passing of this Act, shall, before being entitled to registration, present himself for examination as to his knowledge and skill for the efficient practice of his profession, before the Board of Examiners in the next section mentioned; and upon

*Person not qualified until six months after passing of Act to be examined before committee, etc.*

Proviso.

upon passing the examination required, and proving to the satisfaction of the Board of Examiners that he has complied with the rules and regulations made by the Council, and on the payment of such fees as the Council may determine, such person shall be entitled to be registered, and, in virtue of such registration, to practice medicine, surgery and midwifery in the Province of Ontario: Provided always, that when and so soon as it shall appear that there has been established a Central Examining Board, similar to that constituted by this Act, or an Institution duly recognized by the Legislature of any of the Provinces forming the Dominion of Canada, other than Ontario, as the sole examining body, for the purpose of granting certificates of qualification, and wherein the curriculum shall be equal to that established in Ontario; and the holder of such certificate shall, upon due proof, be entitled to registration by the Council of Ontario, if the same privilege be accorded by such Examining Board or Institution to those holding certificates in Ontario.

Persons practising before Jan'y. 1st, 1850.

2. Any person who was actually practising medicine, surgery or midwifery, or any of them, in Ontario, prior to the first day of January, one thousand eight hundred and fifty, and who shall have attended one course of lectures at any recognized Medical School, shall, upon such proof as the Council may require, be entitled to registration under this Act.

Provision for admission of Homœopathic and Eclectic practitioners.

3. Any person who was actually practising medicine, surgery or midwifery, according to the principles of Homœopathy or the Eclectic system of medicine, before the first day of January, one thousand eight hundred and fifty, and for the last six years in Ontario, may, in the discretion of the representatives of the Homœopathic or Eclectic systems of medicine, be admitted to register under this Act.

Council to appoint committee to examine candidates.

24. At the first regular meeting of the Council, after the passing of this Act, and at the annual meeting in each year thereafter, there shall be elected by the members of the said Council, a Board of Examiners, whose duty it shall be to examine all candidates for registration, in accordance with the by-laws, rules and regulations of the Council; such examinations to be held at Toronto and Kingston, and at the same time as examinations for matriculation of students.

Time and place for examinations.

Board of examiners, how composed.

25. The Board of Examiners appointed under the preceding section, shall be composed as follows: One member from each of the three teaching bodies now existing in Ontario, and one from every other School of Medicine which may be hereafter organized in connection with any University or College which is empowered by law to grant medical or surgical diplomas; and nine members to be chosen from among those members of the College of Physicians and Surgeons of Ontario, who are unconnected with any of the above teaching bodies: Provided always, that every candidate who shall, at the time of his examination, signify

Proviso.



signify his wish to be registered as a Homœopathic or Eclectic practitioner, shall not be required to pass an examination in either Materia Medica or Therapeutics, or in the Theory or Practice of Physic, or in Surgery or Midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the Council of the body to which he shall signify his wish to belong.

**26.** The Council shall, from time to time, as occasion may require, make orders, regulations or by-laws for regulating the registers to be kept under this Act, and the fees to be paid for registration; and shall, from time to time, make rules and regulations for the guidance of the Board of Examiners, and may prescribe the subjects and mode of the examinations, the times and places of holding the same, and generally, may make all such rules and regulations in respect of such examinations, not contrary to the provisions of this Act, as they may deem expedient and necessary; such examinations to be both oral and written; and shall also make by-laws and regulations appointing returning officers, and directing the manner in which elections shall be conducted, and the expenses of the same paid for.

Council to make orders as to registers, fees, examining committees, etc.

**27.** Any person entitled to be registered under this Act, but who shall neglect or omit to be so registered, shall not be entitled to any of the rights or privileges conferred by the provisions of this Act so long as such neglect or omission continues.

Persons not registered not entitled to privileges, etc.

**28.** If the Registrar make or cause to be made any wilful falsification in any matter relating to the register, he shall incur a penalty of fifty dollars, and shall be disqualified from again holding that position.

Wilful falsification by registrar.

#### MEDICAL EDUCATION.

**29.** Every person registered under this Act, who may have obtained any higher degree or any qualification, other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered, on the payment of such fee as the Council may appoint.

Provision as to persons obtaining higher qualification than that registered.

**30.** No qualification shall be entered on the register, either on the first registration or by way of addition to a registered name, unless the Registrar be satisfied by proper evidence that the person claiming is entitled to it; and any appeal from the decision of the Registrar may be decided by the Council, and any entry which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased from the register by an order in writing of the Council: Provided always, that, in the event of the Registrar being dis-

No qualification to be registered unless registrar satisfied.

Provido.

satisfied



satisfied with the evidence adduced by the person claiming to be registered, he shall have the power, subject to an appeal to the Council, of refusing the said registration, until the person claiming to be registered shall have furnished such evidence, duly attested by oath or affirmation before the Judge of the County Court of any county in Ontario.

Every one registered may practise, and recover his fees, etc.

**31.** Every person who shall be registered under the provisions of this Act, shall be entitled, according to his qualification or qualifications, to practise medicine, surgery and midwifery, or any of them, as the case may be, in the Province of Ontario, and to demand and recover in any Court of law, with full costs of suit, reasonable charges for professional aid, advice and visits, and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients.

Registrar to cause correct register to be published of names, etc., of persons registered with particulars, etc.

**32.** The Registrar of the Council shall, from time to time, under the direction of the Council, cause to be printed and published, a correct register of the names in alphabetical order according to the surnames, with the respective residences, in the form set forth in schedule B to this Act or to the like effect, together with the medical titles, diplomas and qualifications conferred by any college or body, with the dates thereof, of all persons appearing on the register as existing on the day of publication; and such register shall be called "The Ontario Medical Register;" and a copy of such register, for the time being, purporting to be so printed and published as aforesaid, shall be *prima facie* evidence in all Courts, and before all Justices of the Peace and others, that the persons therein specified are registered according to the provisions of this Act; and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act: Provided always, that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the Council, of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act.

Proviso.

Council may appoint examiners, etc., for matriculation examinations.

Subjects of examination.

**33.** The Council shall have power and authority to appoint an examiner or examiners for the admission of all students to the matriculation or preliminary examination, and to make by-laws and regulations for determining the admission and enrollment of students; and the following shall be the subjects for such matriculation or preliminary examination: Compulsory,—English Language, including Grammar and Composition; Arithmetic, including Vulgar and Decimal Fractions; Algebra, including Simple Equations; Geometry, first two books of Euclid; Latin translation and Grammar; and one of the following Optional Subjects: Greek, French, German, Natural Philosophy, including Mechanics, Hydrostatics and Pneumatics.

2. It shall not be necessary for students graduating in any college in any of the Provinces forming the Dominion of Canada, other than Ontario, to pass the matriculation or preliminary examination in Ontario, prior to being examined by the Board of Examiners, as provided in the twenty-third section of this Act, if the person presenting himself for examination shall produce a certificate showing that he has passed a matriculation or preliminary examination at the college where he may have graduated, equal to that prescribed by the Council in Ontario.

Graduates of colleges in other Provinces not required to pass matriculation examination on producing certificate, etc.

3. Any graduate, or any student, having matriculated in Arts in any University in Her Majesty's Dominions, shall not be required to pass the preliminary examination.

What other persons exempted.

34. The Council shall have power and authority to fix and determine, from time to time, a curriculum of studies to be pursued by students, and such curriculum of studies shall be observed and taught by all colleges or bodies referred to in section eight of this Act: Provided always, that such curriculum of studies shall first receive the approval of the Lieutenant Governor in Council, and be published once in the *Ontario Gazette*; and that no change in the curriculum at any time existing shall come into effect until six months after the first publication in the said *Ontario Gazette*.

Council to fix curriculum of studies.

Proviso.

#### PENAL AND GENERAL CLAUSES.

35. Any registered medical practitioner, who shall have been convicted of any felony in any Court, shall thereby forfeit his right to registration, and, by the direction of the Council, his name shall be erased from the register; or, in case a person known to have been convicted of felony, shall present himself for registration, the Registrar shall have power to refuse such registration.

Registered practitioner convicted of felony.

36. No person shall be entitled to recover any charge in any Court of law for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he shall have prescribed or supplied, unless he shall prove upon the trial that he is registered under this Act.

Fees not to be recovered unless registration proved.

37. The words "legally qualified medical practitioner," or "duly qualified medical practitioner," or any other words importing legal recognition of any person as a medical practitioner or member of the medical profession, when used in any Act or law shall, in so far as such Act or law applies to this Province, be construed to mean a person registered under this Act.

Interpretation of certain words.

38. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Province of Ontario, or in any hospital or other charitable institution

Registration necessary for appointment.

not



to hospitals,  
etc.;

not supported wholly by voluntary contributions, unless he be registered under the provisions of this Act.

and for valid-  
ity of certifi-  
cates.

**39.** No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid, unless the person signing the same be registered under this Act.

Penalty for  
persons wrong-  
fully procuring  
registration.

**40.** If any person shall wilfully procure, or attempt to procure, himself to be registered under this Act by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, every such person so offending; and every person knowingly aiding and assisting him therein, shall incur a penalty of fifty dollars.

Punishment of  
persons falsely  
pretending to  
be physicians.

**41.** Any person who shall wilfully and falsely pretend to be a physician, doctor of medicine, licentiate in medicine or surgery, master of surgery, bachelor of medicine, surgeon or general practitioner, or shall practice medicine, surgery or midwifery for hire, gain or hope of reward, or shall falsely take or use any name, title, addition or description, implying, or calculated to lead people to infer that he is registered under this Act, or that he is recognised by law as a physician, surgeon or accoucheur, or a licentiate in medicine, surgery, or midwifery, or a practitioner in medicine, shall, upon a summary conviction before any Justice of the Peace, for any such offence, pay a sum not exceeding one hundred dollars, nor less than twenty-five dollars.

Members of  
council to no-  
tify death.

**42.** It shall be the duty of the member of the council representing each territorial division to notify the Registrar of the Council of the death of any registered medical practitioner occurring within his division, so soon as he shall become aware of the same; and, upon the receipt of such notification, the Registrar shall erase the name of the person so deceased from the register.

How penalties  
recovered.

**43.** All penalties imposed by this Act shall be recoverable with full costs of suit, by the Council in the name of the College of Physicians and Surgeons of Ontario.

#### SCHEDULE A.

1. License to practise physic, surgery and midwifery, or either, within Upper Canada, granted under the Acts of Upper Canada, fifty-nine George the Third, chapter thirteen, and eight George the Fourth, chapter three, respectively.

2. License or diploma granted under the second Victoria, chapter thirty-eight, or under the Consolidated Statutes for Upper Canada, chapter forty, or any Act amending the same.



3. License or authorization to practise physic, surgery and midwifery, or either, within Lower Canada, whether granted under the ordinance twenty-eight George the Third, chapter eight, or under the Act ten and eleven Victoria, chapter twenty-six, and the Acts amending the same, or under chapter seventy-one of the Consolidated Statutes for Lower Canada, or any Act amending the same.

4. Certificate of qualification to practise medicine, surgery and midwifery, or either, hereafter to be granted by any of the colleges or bodies named or referred to in section four of this Act.

5. Medical or surgical degree or diploma of any University or College in Her Majesty's dominions, or of such other Universities or Colleges as the Council may determine.

6. Certificate of registration under the Imperial Act, twenty-one and twenty-two Victoria, chapter ninety, known as *The Medical Act*, or any Act amending the same.

7. Commission or warrant as physician or surgeon in Her Majesty's Naval or Military Service.

8. Certificates of qualification to practise under any of the Acts relating to Homœopathy or the Eclectic system of medicine.

#### SCHEDULE B.

Name.	Residence.	Qualifications and additions.
A. B.	Toronto, Co. of York....	M.A., M.D., Toronto University.
C. D.	Kingston, Co. of Frontenac.....	M.A., M.D., Queen's University.
E. F.	Etobicoke, Co. of York.	Licentiate, Medical Board.
G. H.	Toronto .....	do. Toronto School of Medicine.

#### SCHEDULE C.

1. Western and St. Clair electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

2. Malahide and Tecumseth electoral divisions, as established previous to the Confederation of the British American Provinces,

inces, for election of members of the Legislative Council of the late Province of Canada.

3. Saugeen and Brock electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

4. Gore and Thames electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

5. Erie and Niagara electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

6. Burlington and Home electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

7. Midland and York electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

8. King's and Queen's electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

9. Newcastle and Trent electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

10. Quinté and Cataraqui electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

11. Bathurst and Rideau electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

12. St. Lawrence and Eastern electoral divisions, as established previous to the Confederation of the British American Provinces, for election of members of the Legislative Council of the late Province of Canada.

## CAP. XLVI.

An Act to Amend Chapter Fifty-seven of the Consolidated Statutes of Upper Canada, entitled "An Act respecting Line Fences and Water-courses.

[Assented to 23rd January, 1869.]

WHEREAS it is expedient to amend the Act chapterd fifty-seven of the Consolidated Statutes of Upper Canada, by making the provisions thereof applicable to unoccupied or non-resident lands, and the owners thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. The provisions of the said Act, so far as the same relate to water-courses, shall be construed to apply to unoccupied and non-resident lands, and to the owners thereof, to the same extent as to occupied lands and the occupants thereof; and the fence-viewers shall, in like manner as in other cases, determine the share of the expense of any water-course made under the said Act as hereby amended, (which expense is to be borne by the owner of such unoccupied or non-resident lands,) and report the same to the Justice in the said Act mentioned, who shall transmit such report to the Clerk of the municipality: provided always, that the share of the expense of any such water-course chargeable against such unoccupied and non-resident lands, shall not exceed the sum of twenty-five cents per rod.

Provisions of chap. 57 Con. Stat. U. C. to apply to unoccupied lands, etc.

Proviso.

2. The Clerk shall bring such report before the council of the municipality at its first meeting after the receipt thereof, and the council shall cause the amount so reported to be paid to the party entitled thereto, together with a proportionate share of the costs attending the investigation and report.

Fence-viewers' report to be brought before council.

3. Forthwith after such payment, the Clerk shall transmit to the county Treasurer an account of the amount and date of such payment, and the land against which the same is chargeable; and the county Treasurer shall, upon receipt thereof, charge the same against such land in the same manner as the wild land tax; and the same shall thereupon become, to all intents and purposes, a charge upon the said land, and shall be subject to the provisions of the statutes respecting such tax, and shall be collected by distress, or by the sale of such land, in the same manner as such tax is now or may hereafter be directed to be collected.

Amount to be charged on lands, etc.

4. In collecting the amount of such charge, there shall be added to the same eight per centum thereof, and all fees and incidental expenses in the same way and to the same amount, as in the case of such tax.

Interest and fees to be added.



Owner when  
not found to  
be notified by  
letter.

5. Where the owner of such unoccupied or non-resident lands cannot be found after reasonable diligence, or is absent from the Province, it shall be in the power of the Justice referred to in the said Act, to cause such owner to be notified by letter, mailed to his last known place of residence, and to proceed and to cause all subsequent proceedings to be taken in his absence; and all such proceedings shall be as valid as if the notification required by the said Act to be given to an occupant had been given to such owner.

Extension of  
ditch or water-  
course.

6. When any ditch or water-course is extended to the limit or boundary of a township, and, in order to be effective, should be continued into or through another or adjoining municipality, it shall be the duty of such municipality to extend and continue such ditch or water-course through the whole or such part of its territorial limits as may be necessary for making such ditch or water-course effective.

Provisions for  
cases in which  
both municipi-  
palities mutu-  
ally benefited,  
etc.

2. If the lands in both municipalities are benefited in an equal degree in proportion to the extent of such work in each, then the duty of deciding in what proportion the expense shall be borne by and amongst the owners of occupied and unoccupied lands in each municipality, shall devolve upon and appertain to the fence-viewers' in each such municipality; and the proceedings provided by the said Act, as amended by this Act, shall be taken and apply; but if such ditch or water-course does not benefit the lands in both municipalities in an equal degree in proportion to the expense of the work in each, then the duty of deciding in what proportion the expense shall be borne by and amongst the owners of occupied and unoccupied lands in both the municipalities, shall devolve upon and appertain to six fence-viewers' (three from each of such municipalities,) to be nominated and notified of such nomination by some Justice of the Peace having jurisdiction in such municipalities or one of them; and the decision of such fence-viewers, or a majority of them, shall be binding, and shall be in duplicate; and one of such duplicates shall be transmitted by such Justice to the Clerk of each such municipalities; and, in such case, the subsequent proceedings provided by the said Act, as amended by this Act, shall be taken and apply.

When appeal  
allowed.

7. It shall be competent for any party affected by any decision of such fence-viewers' to appeal to the Judge of the County Court, within which the said land is situate, against such decision within thirty days after the same shall be filed with the Clerk of the municipality in this Act mentioned.

Act to be  
part of am-  
ended Act.

8. This Act shall be read as if it were a part of the Act hereby amended.

## CAP. XLVII.

An Act to Amend the Act Thirty-one Victoria, Chapter Twenty-nine, entitled, "An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures."

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The Act passed in the thirty-first year of the reign of Her Majesty, chapter twenty-nine, entitled, *An Act for the Encouragement of Agriculture, Horticulture, Arts and Manufactures*, is amended in manner following :—

31 Vic., chap.  
29, amended.

2. After sub-section one of section twenty-one the following are added as additional sub-sections :—

Sec. 21 amended.

2. All funds of the association, except silver paid out during the time of holding or within one week after the close of the Annual Provincial Fair or Exhibition, shall be deposited, to the credit of the association, in a chartered bank of the Dominion of Canada, to be selected by the council of the association; and all payments made thereout shall be by cheques drawn on such bank by the Treasurer of the association and countersigned by the Secretary thereof.

Funds of association to be deposited in a chartered bank.

3. A corrected list of the names of all persons to whom a prize has been awarded at the Annual Provincial Fair or Exhibition, shall be prepared and printed, and a copy thereof shall, on or before the first day of November next after the holding of each such Provincial Fair or Exhibition, be mailed to the address of every person to whom a prize has been awarded.

Prize list to be mailed to prize holders on or before 1st Nov.

4. All persons to whom a prize is awarded shall apply to the Secretary of the association for payment thereof on or before the thirtieth day of November of the year in which such prize is awarded, or shall forfeit such prize.

Prizes to be applied for on or before 30th Nov.

5. All liabilities of the association shall, except in cases of reasonable dispute regarding the same, and, except where payment of such has not been authorized by the Council, be paid on or before the thirty-first day of December of the year in which the same were incurred; and when a payment is made through the post, it shall be by cheque marked "good" by the bankers of the association.

Liabilities of association to be paid by 31st Dec.

3. In section twenty-five, lines five and six, the words "Manufactures,"

Sec. 25 amended.

"Manufactures, Agriculture and Horticulture, Science, the Fine and Decorative Arts, History and Travels," are substituted in lieu of the words "Engineering, or Chemical or other Manufactures;" and in line nine, and also in schedule D, the word "technical" shall be struck out.

Sec. 33 amend- 4. In section thirty-three, sub-section one, line five, the  
ed. word "thirty" shall be substituted in lieu of the word "fourteen."

Sec. 30 amend- 5. In section thirty-nine, sub-section one, line three, after the  
ed. word "year" the words "and also an analyzed statement" shall be inserted; and in sub-section two, line one, the word "statements" shall be substituted in lieu of the word "statement;" and in line four, the words "of such report and analyzed statement" shall be substituted in lieu of the word "thereof."

Sec. 42 amend- 6. After sub-section two of section forty-two the following is  
ed. added :—

Mode of dis- 3. Where two or more townships have united to form a town-  
solution of ship society, a majority of such of the members of such society as  
union town- reside in any one of the townships comprising such union, may,  
ship societies. by writing signed by such majority and addressed to the direc-  
tors of such united society, express their desire to separate, and  
may thereupon organize a new society for such township in the  
manner provided by section forty-two; and the former united  
society shall thereupon become dissolved and cease to exist; and  
How assets di- the assets of such union society shall be divided in manner pro-  
vided. vided by section fifty-three in regard to the assets of separating  
electoral division societies.

Sec. 45 amend- 7. In section forty-five, sub-section two, line two, after the  
ed. word "held," and before the words "in any," the words "if such  
county show is held at the usual place of holding such town-  
ship shows" shall be inserted; and after the word "show" in  
the last line, the following is added: "this prohibition is not to  
extend to horticultural societies organized under section  
twenty-six."

Sec. 48 amend- 8. In section forty-eight, sub-section three, lines three and  
ed. four, the words "and prior to the first of January of such ensu-  
ing year;" and in line four, the word "such" before the word  
"office" are struck out; and in sub-section four, line one, the  
words "any office-bearer" are substituted in lieu of the words  
"the Secretary or Treasurer;" and it is hereby declared, that the  
said sub-sections three and four were intended to apply, and  
shall be construed to apply, to all societies organized under the  
Act hereby amended, and not merely to township societies.

Sec. 51 amend- 9. In section fifty-one, line nine, after the word "agricul-  
ed. ture," and before the word "such," the words "and a certificate  
of the Secretary of the electoral division society with which  
such



such township society is connected, that it is the recognized society of the township which it professes to represent" shall be inserted.

10. After sub-section one of section fifty-four, the following is added :— Sec. 24 amended.

2. In all matters of doubt or dispute as to the working or construction of the said Act as hereby amended, the decision of the Commissioner shall be final, except that an appeal therefrom may be made to the Lieutenant Governor in Council. Commissioner to decide disputes.

11. Notwithstanding anything contained in sub-section three of section forty-eight, or in any other section or sub-section of the Act hereby amended, all votes taken at the elections for the year one thousand eight hundred and sixty-nine, for any society, of whatever description, organized under the said Act, or taken on any question submitted to the annual meeting of any such society, shall, if otherwise legal, be held to be legal, although the voter may not have paid his subscription for the year one thousand eight hundred and sixty-nine, prior to the first day of January, one thousand eight hundred and sixty-nine : Provided such subscription shall have been paid before the recording of such vote. Votes at proceedings for 1869 legalized, though subscription not paid before 1st January, 1869. Proviso.

12. The following Acts are hereby repealed, so far as they relate to Ontario : Chapter thirty-two of the Consolidated Statutes of Canada, entitled, *An Act respecting the Bureau of Agriculture and Agricultural Societies* ; an Act passed in the twenty-fifth year of the reign of Her Majesty, chapter seven, entitled, *An Act to extend the provisions of Chapter Thirty-two of the Consolidated Statutes of Canada, with respect to the Bureau of Agriculture* ; and an Act passed in the twenty ninth year of the reign of Her Majesty, chapter ten, entitled, *An Act to Amend Chapter Thirty-two of the Consolidated Statutes of Canada, respecting the Bureau of Agriculture and Agricultural Societies*. Con Stat. Can., chap. 32 ; 25 Vic., chap. 7 ; and 29 Vic., chap. 10, repealed.

13. This Act shall be read as part of the Act hereby amended, which may be known and cited as "The Agricultural and Arts Act." Title of Act.

## CAP. XLVIII.

An Act to Make Provision for the Selection of Jurors for the County of York for the year One thousand eight hundred and sixty-nine, and for other purposes.

[Assented to 23rd January, 1869.]

## Preamble.

WHEREAS it is necessary to make special provision for the selection of jurors to serve in and for the county of York, during the year one thousand eight hundred and sixty-nine: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Jury books, etc., for the county of the city of Toronto to be delivered to Clerk of the Peace, county of York.

1. The jury books and jury lists, made up and intended to be the jury books and jury lists for the county of the city of Toronto, for the year one thousand eight hundred and sixty-nine, together with all jury rolls, jury books and jury lists for previous years, and all records, books, papers and documents and other proceedings of the late Recorder's Court for the said city, and all other records, books, papers and documents relating to the administration of criminal justice in the Recorder's Court of the said city, and in the Courts of Oyer and Terminer and General Gaol Delivery for the late county of the city of Toronto, shall be handed over and delivered by the officer or person in whose custody the same, or any of them, are or may be, to the Clerk of the Peace for the county of York, to be kept and preserved by him and his successors, with and amongst and as the proper records, books, papers and documents of his said office.

Jury lists for said county for present year to be taken, with others, as the jury lists for the county of York.

2. The jury books and jury lists of the county of York for the present year one thousand eight hundred and sixty-nine, and the jury books and jury lists made or to be made up and intended to be the jury books and jury lists, respectively, for the Superior Courts of the county of the city of Toronto, and for the Recorder's Court of the said city for the present year, shall together be held, regarded and treated as one jury book or jury list, and as the proper jury book and jury list of the county of York for the present year; and the sheriff of the county of York, and every other officer or person to whom any writ of *venire facias*, or precept for the return of juries, may be or is directed, shall, in the selection of juries to serve within the said county of York during the year one thousand eight hundred and sixty-nine, select such jurors from the said jury lists in the same manner as if the said respective jury books and jury lists formed together only one jury book and jury list.

Names on first

3. The Clerk of the Peace of the county of York, immediately after

after receiving the jury books and jury lists mentioned in the first section of this Act, shall renumber the names of the jurors on the respective jury lists of the Superior Courts of the county of the city of Toronto, and of the Recorder's Court of the said city for the present year, commencing for that purpose with a number next higher than the highest number appearing on the respective jury lists of the county of York for the said year, and continuing the numbers consecutively to the end.

numbered lists  
to be renum-  
bered.

4. All records, books, papers and documents belonging or appertaining to, or connected, with the proceedings of the Recorders' Courts for the cities of Ottawa, Kingston, Hamilton, and London, respectively, shall, on the first day of February, one thousand eight hundred and sixty-nine, be handed over, by the officer or person in whose custody or possession the same may be, to the Clerk of the Peace of the county, within the limits of which the said cities are respectively situate, and shall from thenceforth form a part of the records, books, papers and documents of the office of such Clerks of the Peace respectively.

Records, etc.,  
of Recorders'  
Courts to be  
handed over  
to Clerks of  
the Peace.

## CAP. XLIX.

### An Act to Make further Provisions relating to the Territorial District of Muskoka.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Lieutenant Governor in Council may divide the district of Muskoka into two or more divisions, and appoint and, from time to time, alter the number, limits and extent of every such division, and may number the same consecutively commencing at number one.

District may  
be divided into  
divisions.

2. A Court shall be held in every such division, once in every three months, or oftener at the discretion of the Stipendiary Magistrate, who may appoint, and, from time to time, alter the times and places within such divisions when and at which such Courts shall be holden, subject to the approval of the Lieutenant Governor in Council.

Court to be  
held in each.

3. Section eight of the statute passed in the last session of the Legislature of this Province, chapter thirty-five, entitled, *An Act to Provide for the Organization of the Territorial District of Muskoka*, is hereby repealed, and the following clause substituted therefor:—

Sec. 8, chap.  
35, 31 Vic.,  
repealed.

"In



New enact-  
ment.

"In all cases arising in the said district, in which, according to the general laws of this Province, an appeal lies from the decision of any one or more Justices of the Peace, to the Quarter or General Sessions of the Peace, such appeal shall lie to, and may be brought before and heard and determined by, the Court of General Sessions of the Peace for the county of Simcoe; and shall be claimed and allowed and prosecuted in the same manner, and within the same period, as if the same had arisen, within the limits of the said county of Simcoe: Provided that no appeal shall lie from any judgment or decision of the Stipendiary Magistrate of the said District."

Proviso.

Sec. 9, chap.  
128, Con.  
Stat., U. C.,  
amended.

4. In further amendment of the said Act of the last session of the Legislature of this Province, chapter thirty-five, and of section nine of chapter one hundred and twenty-eight of the Consolidated Statutes for Upper Canada, so far as the said last mentioned section is, by the said first mentioned Act, made applicable to the said district of Muskoka, the words "the common gaol of the county of Simcoe" are substituted for, and shall be read instead of, the words "the common gaol of the proper county," in the said section nine.

Returns of  
convictions.

5. All returns of convictions required by law to be made by any Justice or Justices of the Peace for the said district of Muskoka, shall be made to the Clerk of the Peace for the county of Simcoe.

New form of  
oath.

6. The oath to be taken by the Stipendiary Magistrate of the said district of Muskoka, in addition to his oath of office as a Justice of the Peace, shall be as follows: "I, A. B., do swear, "that I will truly and faithfully execute the several powers, "duties and trusts committed to or required of me, by the Act to "provide for the organization of the territorial district of Mus- "koka, without fear, without favour and without malice; so "help me God."

Certain provi-  
sions of chap.  
19 of Con.  
Stat., U. C.,  
adopted.

7. The provisions of the sections one hundred and seventy-five, one hundred and seventy-six, one hundred and seventy-seven, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, and of sections one hundred and sixty and the sections following to section one hundred and seventy-three inclusive, and of section one hundred and thirty-nine of chapter nineteen of the Consolidated Statutes for Upper Canada, entitled *An Act respecting Division Courts*, together with the provisions of an Act of this present session of the Legislature, entitled *An Act to Amend the Acts respecting Division Courts*, shall extend and apply to the said district of Muskoka, and to the several Courts established in the said district, and to the proceedings in such Courts, in the same manner, and with the like effect, as if they and each of them, were here inserted and re-enacted, and made applicable in express terms to the said district.

8. The several instruments mentioned in section seven of chapter forty-five of the Consolidated Statutes of Upper Canada, entitled, *An Act respecting Mortgages and Sales of Personal Property*, when made or executed within the said district of Muskoka, or affecting personal property therein, shall be registered in the office of the Clerk of the First Division Court of the said district at Bracebridge; and, when so registered, shall have the like effect as similar instruments executed in any county of this Province have, when registered in the office of the Clerk of the County Court of the proper county.

Registration  
of chattel  
mortgages  
and sales.

## CAP. L.

### An Act respecting Titles to Union Houses of Religious Worship.

[Assented to 23rd January, 1869.]

WHEREAS it is expedient to make provision for the acquiring of titles to union houses for religious worship in Ontario: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. When members or adherents in any locality of two or more religious societies, desire to build a house for public worship, it shall be lawful for the proper authorities of each of the societies respectively, to appoint, from time to time, one trustee in the manner and form prescribed in section one of chapter sixty-nine of the Consolidated Statutes of Upper Canada.

Two or more  
religious societies  
to appoint  
trustees.

2. The trustees of the religious bodies so united shall have the like powers as conferred on trustees under the said Act, and no others; and as to any act, deed or thing to be done or made by trustees under the said Act, which, by the said Act, requires the sanction or consent of the congregations or religious bodies therein mentioned, the trustees under this Act shall require the consent of each and every of the congregations or religious bodies so united to be ascertained and signified in the manner mentioned in the sixth section of the said Act, in respect to the consent of the congregations or religious bodies therein referred to.

Trustees to  
have powers as  
in chap. 69  
Con. Stat. of  
U. C.

Consent of  
congregation  
necessary.

3. The conveyances and other deeds under this Act shall be in the same form, and are required to be registered within the same period, as required by the said Act in respect to conveyances and deeds therein mentioned.

Form of conveyances  
and time of registration.

## CAP. LI.

An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith.

[Assented to 23rd January, 1869.]

## Preamble.

WHEREAS the Synod of the United Church of England and Ireland, of the Diocese of Toronto, have petitioned for an Act for the incorporation of the said Synod, and for union with the Church Society of the said Diocese; and the said Church Society have also petitioned for the same, and it will greatly facilitate the objects for which the said Synod and Church Society were established, to grant the prayer of the said petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

## Incorporation.

1. The Synod of the United Church of England and Ireland, of the Diocese of Toronto, shall be, and the same is, hereby incorporated by the name of "The Incorporated Synod of the Diocese of Toronto."

## Constitution of Synod.

2. The said Synod shall consist of the Bishop of the said Diocese, who shall be the head of the Synod, and any Suffragan or Coadjutor Bishop thereof, the Priests and Deacons of the same licensed by the Bishop or Suffragan, and of lay representatives to be elected according to the constitution of the said Synod, as the same exists at the time of the passing of this Act, or as it may, from time to time, be altered by the said Synod after the passing of this Act.

## Corporate name.

3. The Church Society of the Diocese of Toronto shall be, and is hereby united to, and incorporated with, the said Synod of the Diocese of Toronto, and shall hereafter be called and known as "The Incorporated Synod of the Diocese of Toronto."

## How property vested;

4. All the property of what nature or kind soever, now held by or vested in the said Church Society, shall be and is hereby declared to be, vested in the Synod of the Diocese of Toronto, without any conveyance thereof by the said Church Society to the said Synod; and the name of the said Synod is and shall stand and be in the place of the name of the said Church Society in all deeds and other writings relating to the property and affairs of the said Church Society, and in all suits and proceedings, either at law or in equity, by or against the said Church Society.

## and on what trusts.

5. The said Synod shall be subject to all the liabilities  
of



of the said Church Society, and shall hold all property vested in trust in the said Society, upon the same trusts as such property was heretofore held by the said Society; and shall administer the same according to such trusts; and all claims, rights, suits, actions, cause and causes of suit and action, which might but for this Act be brought, prosecuted, or enforced by any person or persons, body or bodies corporate whatsoever against the said Church Society of the Diocese of Toronto, may be brought, prosecuted and enforced against the said Synod, and against its funds, property and effects; and nothing herein contained shall relieve any officer or corporator of the said Church Society from any existing claim or liability at law or in equity, or take away any right of action or suit of any corporator of the said Society or other person, or of the said Society in respect of any of the affairs or property of the said Society.

6. The said Synod shall have all the powers, rights, <sup>Powers, etc.,</sup> privileges and franchises conferred upon the said Synod under the Act passed in the session held in the nineteenth and twentieth years of Her Majesty's reign, entitled *An Act to enable the Members of the United Church of England and Ireland to meet in Synod*, as well as those conferred upon the Church Society by the several Acts of the Legislature of the Province relating to the said Church Society, and to enforce all rights and claims which either such Synod or Society could enforce against any person or persons whatsoever, body or bodies corporate, or otherwise howsoever. <sup>of Synod.</sup>

7. The said Synod shall have full power and authority <sup>Powers con-</sup> to make such canons, rules, regulations and by-laws, as by the said Synod may be considered necessary in the exercise of the powers conferred upon the said Synod, under the said Acts in the next preceding clause mentioned, and also for the conduct of their proceedings, regulation of their members, and all such other matters as may pertain to the proper and orderly discharge of their business. <sup>tinued.</sup>

8. The said Synod may exercise all its powers by and <sup>How exer-</sup> through such boards or committees as the said Synod may, from time to time, appoint by by-law or by-laws for the management of all or any of the affairs or property of the said Synod, but in accordance only with the trusts relating to any property to which any special trust is attached. <sup>cised.</sup>

9. The said Synod may appoint or remove all such officers <sup>Appointment</sup> as may be found necessary for the management of the affairs of officers. and business of the said Synod, and provide for their remuneration.

10. Until other provision is made under this Act by the Synod, all the property and funds of the said Church Society shall continue to be managed by the committee and <sup>How property,</sup> officer <sup>etc., to be</sup> managed.

Officers of the said Church Society, and under the by-laws thereof, but subject to the supervision and control of the Synod, to whom all reports respecting the same shall be made.

## CAP. LII.

An Act to Amend the Act Twenty-six Victoria, Chapter thirty-one, entitled "An Act to Incorporate Huron College."

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS Huron College have, by their petition, represented that in the constitution adopted by the College, reference is made to the endowment, by the Reverend Alfred Peache, of a Chair in the College, to be called the Peache Chair, and which is therein expressed to be thereby accepted upon the conditions in a certain indenture contained; that through a misconception of the conditions of the said endowment, certain provisions at variance therewith, were admitted into the constitution of the College; that in the Act incorporating the College, passed subsequently to the adoption of the constitution of the College, (reference being had to the constitution,) it could not thereafter be altered but by Act of Parliament; and that it is desirable that the constitution of the College should be amended, so as to reconcile its terms to those of the said endowment; and whereas it is expedient to grant the prayer of the petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

26 Vic., chap.  
31 amended.

1. The statute twenty-six Victoria, chapter thirty-one entitled *An Act to Incorporate Huron College*, shall be, and the same is hereby amended, by adding thereto the following clauses, which shall be taken and read as part and parcel of the said Act:—

Secs. 17 and  
20 amended.

2. The constitution of Huron College is hereby amended as follows: In section seventeen of the constitution, to the parenthesis containing these words, "after the first appointments, which are to be made as provided hereafter," add, "and also subject to the provisions of these presents, and of the said indenture bearing even date herewith;" and let section twenty read as follows: "the provision in the recital hereof mentioned, proposed to be made by the Reverend Alfred Peache, for the endowment of a Chair of Divinity, to be called the Peache Chair, is hereby accepted, and the party, for the time being, filling that Chair, is the person in these presents designated the Professor of Divinity."

3. From section twenty-four of the constitution strike out the word "also," so that the passage shall stand "control of a Principal, who shall be the Professor of Divinity;" also strike out the following passage: "Provided always, that if at any future time, it shall, for any reason, be deemed advisable by the governing body of the Institution, to sever the Professorship of Divinity and that of the Peache Chair from the Principalship, it shall be competent for the governing body to do so." Sec. 24 amend-  
ed.

4. From section twenty-eight, strike out the words "also the," so as to leave the commencement of the paragraph to stand "The Principal and Divinity Professor." Sec. 28 amend-  
ed.

### CAP. LIII.

#### An Act to Incorporate the Ottawa Unity Protestant Benefit Society.

[Assented to 23rd January, 1869.]

WHEREAS there has existed for six months past, in the city of Ottawa, an association known by the name of "The Ottawa Unity Protestant Benefit Society," which has for its object to aid and assist its members in cases of sickness; to defray the necessary expenses attending the funerals of deceased members; and to make a certain provision for their widows or nominees; and whereas the members of this association have asked by petition that it be incorporated, and it is right to accede to their request: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:— Preamble.

1. George Honey Preston, Robert William Gibson, Hugh Davies, William Porter, William Truman, Henry Fellowes, James Green, William Kerr, William Letherland, James Seager, Samuel McCandlish, Henry Lepine, Samuel Greenfield, John Ardell and George I. Blyth, together with such other persons as now are members of the said institution, or may hereafter become members thereof, in virtue of this Act, shall be, and they are hereby constituted, a body politic and corporate in fact and in name, under the style or title of "The Ottawa Unity Protestant Benefit Society," for aiding and assisting its members in cases of sickness, and of providing assistance in defraying the necessary expenses attending the funerals of its deceased members, and further, to secure certain sums of money to be paid to and for the sole use and benefit of the widows or nominees of its deceased members, and, by that name, shall have power, from time to time, and at any time hereafter, to purchase acquire, possess, hold, exchange, accept and receive for themselves and their successors, all lands, tenements and hereditaments, Incorporation.  
  
Corporate  
name and  
powers.  
  
Real property.



By-laws.

Further powers.

Proviso as to application of revenue.

Transfer of property of association.

Recovery of money due.

Appointment of trustees.

Their powers.

ments, and all real estate being and situated in the Province of Ontario, necessary for the actual use and occupation of the said corporation, not exceeding in annual value two thousand dollars, and the said property to mortgage, sell, alienate and dispose of, and to acquire other property instead thereof for the same purposes; and any majority whatsoever of the said corporation, for the time being, shall have full power and authority to make and establish such rules, regulations and by-laws, not inconsistent with this Act, nor with the laws then in force in the Province of Ontario, as they may deem expedient and necessary for the interest and administration of the affairs of the said corporation, and for the admission of members thereof; and the same to amend and repeal, from time to time, in whole or in part; and also such regulations and by-laws of the said association as may be in force at the time of the passing of this Act; and such majority may also execute and administer, or cause to be executed and administered, all and every the other business and matters appertaining to the said corporation, and to the government and management thereof, in so far as the same may come under their control, respect being nevertheless had to the regulations, stipulations, provisions and by-laws to be hereafter passed and established: Provided always, that the rents, revenues and profits arising out of every description of movable property belonging to the said corporation, shall be appropriated and employed exclusively for the use of the said corporation, and for the payment of expenses legitimately incurred in carrying out any of the objects above referred to.

2. All real and personal estate at present the property of the said association, or which may hereafter be acquired by the members thereof, in their capacity as such, by purchase, donation or otherwise, not exceeding the value aforesaid, and all debts, claims and rights which they may be possessed of in such capacity, shall be and they are hereby transferred to the corporation constituted by this Act; and the said corporation shall be charged with all the liabilities and obligations of the said association; and the rules, regulations and by-laws now or hereafter to be established, for the management of the said association, shall be and continue to be the rules, regulations and by-laws of the said corporation, until altered or repealed in the manner prescribed by this Act.

3. All subscriptions and penalties due to the corporation under any by-law, may be recovered by suit in the name of the corporation.

4. The members of the said corporation, for the time being, or the majority of them, shall have power to appoint trustees and such other officers, managers, administrators or servants of the said corporation, as may be required for the due management of the affairs thereof, and to allow to them respectively a reasonable and suitable remuneration; and all officers so appointed

pointed shall have the right to exercise such other powers and authorities for the due management and administration of the affairs of the said corporation as may be conferred upon them by the regulations and by-laws of the said corporation.

3. The said corporation shall be bound to make annual reports, verified under the oath of the proper officer, to the Lieutenant Governor and the Legislative Assembly of Ontario, containing a general statement of the affairs of the corporation, which said report shall be presented within the first twenty days of each and every session of the said Parliament. Annual returns.

## CAP. LIV.

An Act to Incorporate the St. Andrew's Society of  
the City of Ottawa.

[Assented to 23rd January, 1869.]

**W**HEREAS James Alexander Grant, Andrew Mann, James Pennington Macpherson, Edward McGillivray, James Fraser, Robert Lees, John Palmerston Robertson, Rev. Daniel M. Gordon, Donald McGillivray, James W. Russell, William McFarlane, Thomas Isaac, James Dalglish, James Peacock, George D. Sadler, Ebenezer Kidd MacGillivray, George Kennedy, George M. Rose, Henry Inglis, John Thorburn, William Sutherland and John McMillan, Esquires, and others, by their petition to the Legislature, have represented that the society of which they are members, known as "The St. Andrew's Society of Ottawa," has been formed for many years, for the purpose of affording pecuniary, medical and other relief, to such natives of Scotland and their descendants as may, from sickness or other causes, have fallen into distress, and have prayed that for the better attainment of the objects of the said society, the same may be invested with corporate powers; and, by reason of the good effected by the said society, it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said James Alexander Grant, Andrew Mann, James Pennington Macpherson, Edward McGillivray, James Fraser, Robert Lees, John Palmerston Robertson, Rev. Daniel M. Gordon, Donald McGillivray, James W. Russell, William McFarlane, Thomas Isaac, James Dalglish, James Peacock, George D. Sadler, Ebenezer Kidd MacGillivray, George Kennedy, George M. Rose, Henry Inglis, John Thorburn, William Sutherland and John McMillan, and such other persons as are now members of the said society, or shall hereafter become members thereof Incorporation.  
under

Corporate  
name and  
powers.

Proviso.

Committee of  
management.

Quorum.

Corporation  
may make by-  
laws.

General  
powers.

Present by-  
laws contin-  
ued.

First officers of  
the corpora-  
tion.

Recovery of  
money due to  
the corpora-  
tion.

General meet-  
ings.

under the provisions of this Act, and the by-laws made under the authority thereof, and their successors, shall be, and they are hereby constituted, a body politic and corporate by the name of "The St. Andrew's Society of Ottawa," and, by that name, shall have power to purchase, take, receive, hold and enjoy such real estate as may be required for the actual occupation of the said corporation in the city of Ottawa, and to alienate, sell, convey, lease or otherwise dispose of the same, or any part thereof, from time to time, and as occasion may require, and other estate, real or personal, may acquire instead thereof: Provided always, that the clear annual income of the real estate, held by the corporation at any one time, shall not exceed five thousand dollars.

2. The affairs and business of the said corporation shall be managed by a Committee of Management, consisting of a President, a first and second Vice-President, a Treasurer, a Recording Secretary, a Corresponding Secretary, a Chaplain, two Physicians, a Solicitor and nine other members to be elected annually at a general meeting of the members of the corporation, held in conformity to the by-laws thereof; and any five members of the said committee shall be a quorum for the dispatch of business; and the corporation may assign to any of such officers such remuneration as they may deem requisite.

3. The corporation may make such by-laws not contrary to law, as they shall deem expedient for the administration and government of the corporation, and of such asylum or other charitable institutions as they shall maintain; and may repeal or amend the same, from time to time, observing always, however, such formalities as by such by-laws may be prescribed to that end, and generally, shall have all the corporate powers necessary to the ends of this Act.

4. The by-laws of the said association, not being contrary to law, shall be the by-laws of the corporation hereby constituted, until they shall be repealed or altered as aforesaid.

5. Until others shall be elected according to the by-laws of the corporation, the present officers of the association shall be those of the corporation.

6. All subscriptions and penalties due to the corporation under any by-law, may be recovered by suit in the name of the corporation; but any member may withdraw therefrom at any time, on payment of all amounts by him due to the corporation, inclusive of his subscription for the year then current.

7. The general meetings of the said corporation shall be held in such manner, after such notice, upon such requisition, and at such times in the city of Ottawa, as shall be directed by the by-laws of the corporation then in force.



8. No person, otherwise competent to be a witness in any suit or prosecution in which the corporation may be engaged, shall be deemed incompetent to be such witness, by reason of his being or having been a member or officer of the corporation. Competency of witnesses.

9. The corporation shall at all times, when required so to do by the Governor or the Legislature, make a full return of all their property, real and personal, and of their receipts and expenditure, for such period, and with such details and other information, as the Governor or the Legislature may require. Returns when required.

## CAP. LV.

An Act to Authorize the Law Society of Ontario to admit Frederick George Allenby as a Barrister at Law.

[Assented to 23rd January, 1869.]

**W**HEREAS Frederick George Allenby has, by his petition, represented that he was in Easter Term one thousand eight hundred and fifty-five, admitted as an Attorney at Law and Solicitor in Chancery, in the English Courts, and practised in England for several years; and that he has also been admitted as an Attorney at Law and Solicitor in Chancery, in Ontario; and that he is desirous of being called to the Bar of Ontario, upon passing the usual preliminary and final examinations prescribed by the Law Society of Ontario, without being required to stand as a student of the laws upon the books of the said Society for the period prescribed by law; and whereas inasmuch as the said Frederick George Allenby has been admitted an Attorney and Solicitor for thirteen years, it is expedient to allow him to be called to the Bar without the usual period of probation as a student: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:— Preamble.

1. It shall be lawful for the Law Society of Ontario and the Benchers thereof, in their discretion, and upon the payment of the usual fees therefor, to place the name of the said Frederick George Allenby upon the roll of members of the said society, and to call and admit him to the degree of Barrister at Law, and the practice of the law as such, as soon as he has passed the usual preliminary and final examinations prescribed by the rules of the said society, without requiring him to remain upon the books of the said society as a student of the laws, and without his compliance with the other requirements of the law or the rules and regulations of the said society in that behalf, any law, usage or regulation to the contrary notwithstanding. Law Society may admit F. G. Allenby as Barrister.

CAP.

## CAP. LVI.

## An Act to Erect the Township of Monck, in the District of Muskoka, into a Municipality.

[Assented to 23rd January, 1869.]

## Preamble.

WHEREAS certain resident settlers in the township of Monck have, by their petition, prayed that an Act may be passed to authorize the immediate erection of the said township into a municipality, to be annexed to the county of Simcoe, and it is expedient to grant their request: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

## Township of Monck a municipality.

1. From and after Monday, the eighth day of February next, the said township of Monck is hereby declared and constituted a municipality, by the name of "The Corporation of the Township of Monck," with all the rights, powers, liabilities and incidents of a municipality erected under the existing municipal laws of this Province, anything in the existing municipal law of this Province contained to the contrary notwithstanding.

## Attached to county of Simcoe.

2. The said hereby erected municipality shall be attached, for all municipal purposes, to the county of Simcoe.

## First municipal election.

3. The nomination for the first election of reeve and councillors shall take place at the house of Gordon M. Ewing upon Tuesday, the sixteenth day of February next, at the hour of noon; and the first election shall be held at the house of the said Gordon M. Ewing, on Tuesday, the twenty-third day of February next; and William Payne is hereby appointed the returning officer to preside at such nomination and election.

## Who to vote.

4. At the first election of reeve and councillors of the said township, to be held under this Act, every resident freeholder or householder in the said township shall be entitled to vote provided he shall take, if required, the following oath:—"I, A. B., do solemnly swear (or affirm if the party be entitled by the laws of this Province to affirm in civil matters), that I am a subject of Her Majesty; that I am a freeholder (or householder) in the township of Monck; that I am of the full age of twenty-one years; and that I have not voted before at this election; so help me God.

## Oath.

## Municipal laws to apply.

5. In all matters not provided by this Act, the municipal laws of this Province shall apply and be in force in the said township.

## First meeting

6. The first meeting of the duly elected council for the aforesaid

said municipality, shall take place at eleven o'clock in the fore-noon on the first Tuesday of the month of March next. of municipal council.

7. Nothing herein contained shall, in any way, affect or repeal any provision of an Act passed in the last session of the Legislature, entitled, *An Act to Provide for the Organization of the Territorial District of Muskoka.* Not to affect former Act.

## CAP. LVII.

An Act to Erect the Townships of Watt, Cardwell, Humphrey, Christie, Medora and Wood, in the District of Muskoka, into a Municipality.

[Assented to 23rd January, 1869.]

**W**HEREAS certain resident settlers in the townships of Watt, Cardwell, Humphrey, Christie, Medora and Wood, have, by their petition, prayed that an Act may be passed to authorize the immediate erection of the said townships into a municipality, to be annexed to the county of Simcoe, and it is expedient to grant their request: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. From and after the eighth day of February next, the said townships of Watt, Cardwell, Humphrey, Christie, Medora and Wood, shall be declared and constituted a municipality by the name of "The Corporation of the United Townships of Watt, Cardwell, Humphrey, Christie, Medora and Wood," with all the rights, powers, liabilities and incidents of a municipality erected under the existing municipal laws of this Province, anything in the existing municipal laws of this Province contained to the contrary notwithstanding. Certain townships united.

2. The said hereby erected municipality shall be attached, for all municipal purposes, to the county of Simcoe. Attached to county of Simcoe.

3. The nomination for the first election of reeve and councillors, shall take place at or near Raymond Post Office, upon Tuesday, the sixteenth day of February next, at the hour of noon; and the first election shall be held at the same place on Tuesday, the twenty-third day of February next; and Frederick Richardson is hereby appointed the returning officer to preside at such nomination and election. First election of reeve and councillors.

4. At the first election of reeve and councillors of the said united townships, to be held under this Act, every resident Who to vote.  
householder



Proviso as to  
oath.

householder and freeholder in the said township shall be entitled to vote : Provided he shall, if required, take the following oath :  
“ I, A.B., do solemnly swear (*or affirm if the party be entitled by the laws of this Province to affirm in civil matters*), that I am  
“ a subject of Her Majesty; that I am a householder (*or freeholder*)  
“ in the united townships of Watt, Cardwell, Humphrey, Christie,  
“ Medora and Wood; that I am of the full age of twenty-one years;  
“ and that I have not before voted at this election; so help me  
“ God.”

Municipal  
laws to apply.

5. In all matters not provided by this Act the municipal laws of this Province shall apply and be in force in the said united townships.

First meeting  
of council.

6. The first meeting of the then duly elected council for the aforesaid municipality, shall take place at eleven of the clock in the forenoon on the first Tuesday in March next.

Not to affect  
former Act.

7. Nothing herein contained shall, in any way, affect or repeal any provision of an Act passed in the last session of the Legislature, entitled, *An Act to Provide for the Organization of the Territorial District of Muskoka.*

## CAP. LVIII.

### An Act to Incorporate the Norfolk Railway Company.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS the construction of a railway from the town of Simcoe, in the county of Norfolk, or from Port Dover, or Port Ryerse, on Lake Erie, running through the town of Simcoe to or near the village of Caledonia, in the county of Haldimand, or to or near the town of Brantford or the town of Paris, in the county of Brant, is desirable, and it is expedient to grant a charter for the construction of such Railway : Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Incorporation.

1. Daniel Matthews, Thomas William Walsh, William Mercer Wilson, Isaac Austin, Thomas W. Clark and H. J. Sutton, together with such persons and corporations as shall, in pursuance of this Act, become shareholders of the said company hereby incorporated, are hereby constituted and declared to be a body corporate and politic, by the name of “The Norfolk Railway Company.”

Certain

2. The several clauses of the Railway Act of the Consolidated

dated Statutes of Canada, and amendments, with respect to the first, second, third, fourth, fifth and sixth clauses thereof, with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Action for Indemnity, Fines and Penalties, and their Prosecution," "By-laws, Notice, &c.," "Working of the Railway" and "General Provisions," shall be incorporated with, and be deemed to be part of, this Act, and shall apply to the said company, and to the Railway to be constructed by them, except only so far as they may be inconsistent with the express enactments hereof, and the expression, when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act.

clauses of the  
Railway Act  
to apply.

3. The said company hereby incorporated, and their servants and agents, shall have full power, under this Act, to construct a railway from any point in or near the town of Simcoe, or from Port Dover or Port Ryerse, on or near Lake Erie, running through the town of Simcoe, to or near the village of Caledonia, in the county of Haldimand, or to or near the town of Brantford, and thence to some point on the Great Western Railway, or the town of Paris, in the county of Brant, as may seem to the company, best adapted to attain the objects mentioned in the preamble, with full power to pass over such portions of the said county of Norfolk, and adjacent counties as may be determined upon.

Line of rail-  
way author-  
ized.

4. The gauge of the said railway shall not be less than three feet six inches, and the said company may lay down rails of wood, iron, or other material, in their discretion.

Gauge.

5. Conveyances of lands to the said company, for the purposes of this Act, may be made in the form set out in the schedule hereunder written, or to the like effect; and such conveyances shall be received by the several Registrars, and be registered by duplicates thereof, in such manner and upon such proof of execution, as is required under the registry laws of Ontario; and no Registrar shall be entitled to demand more than fifty cents for registering the same, including all entries and certificates thereof, and certificates endorsed on the duplicate thereof.

Form of con-  
veyances to  
company.

6. From and after the passing of this Act, the said Daniel Mathews, Thomas W. Walsh, William Mercer Wilson, Isaac Austin, Thomas W. Clark and H. J. Sutton, shall be provisional directors of the said company.

Provisional  
directors.

7. The persons named in the first clause hereof are constituted the Board of provisional directors of the said company, and shall hold office as such until the first election of the directors

Powers of pro-  
visional direc-  
tors.

tors

tors under this Act, and shall have power and authority, immediately after the passing of this Act, to open stock books and procure subscriptions of stock for the undertaking, giving at least four weeks previous notice by advertisement in the newspapers hereinafter mentioned, and in the *Ontario Gazette*, of the time and place of their meeting, to receive subscriptions of stock; and the said provisional directors may cause surveys and plans to be made and executed, and to acquire any plans and surveys now existing, and it shall be their duty, as herein-after provided, to call a general meeting of shareholders for the election of directors.

Capital of the company.

8. The capital of the company hereby incorporated, shall be two hundred thousand dollars (with power to increase the same in the manner provided by the Railway Act), to be divided into four thousand shares of fifty dollars each, and shall be raised by the persons and corporations who may become shareholders in such company; and the money so raised shall be applied, in the first place, to the payment of all expenses for making the surveys, plans and estimates connected with the works hereby authorized; and all the remainder of such money shall be applied to the making, equipment and completion of the said railway, and the other purposes of this Act, and to no other purpose whatever.

Municipalities may aid by bonus, etc.

9. And it shall further be lawful for any municipality or municipalities, through any part of which, or near which, the railway or works of the said company shall pass or be situated, or which may be benefited thereby, to aid and assist the said company by loaning or guaranteeing, or giving money by way of bonus or other means to the company, or issuing municipal bonds to, or in aid of the company, and otherwise in such manner, and to such extent, as such municipalities, or any of them, shall think expedient: Provided always, that no such aid, loan, bonus, or guarantee shall be given, except after the passing of by-laws for the purpose, and the adoption of such by-laws by the ratepayers, as provided in the Railway Act: Provided also, that any such by-law to be valid shall be made in conformity with the laws of this Province respecting municipal institutions.

Proviso.

Proviso.

Trustees.

10. Whenever any municipality shall grant a bonus to aid the said company in the making, equipment and completion of the said railway, the debentures therefor shall, within six weeks after the passing of the by-law authorizing the same, be delivered to three trustees, to be named, one by the Lieutenant Governor in Council, one by the said company, one by the Warden of the county of Norfolk, the Reeves of the townships of Townsend, Woodhouse, Windham, Walsingham, and the town of Simcoe, all such trustees to be residents of the county of Norfolk: Provided that if the Lieutenant Governor in Council shall refuse or neglect to name such trustee within

Proviso.



within six weeks after he shall have been duly notified of the appointment of the other two trustees, the said company shall be at liberty to name one in the place of the one to have been named by the Lieutenant Governor in Council: *Provido.* Also, that the said Warden and Reeves shall appoint the said trustee to be appointed by them by the vote of a majority of them who shall attend the meeting for that purpose, to be held at such time and place as the said company may appoint for that purpose, notice of which shall be sent to each of them by mail at least fourteen days before the day appointed; and if they then fail or neglect to name such trustee, the said company shall be at liberty to name one in the place of the trustee to have been named by them; but any trustee appointed may be removed, and a new trustee appointed in his place, at any time by the consent of the Lieutenant Governor in Council, the majority of the said Warden, and Reeves and of the said company.

11. The said trustees shall receive the said debentures in trust: Firstly, to convert the same into money; Secondly, to deposit the amount realized from the sale of the said debentures in some one of the chartered banks having an office in the town of Simcoe, under the style of the Norfolk and Municipal Trust Account, and to pay the same out to the said company from time to time, on the certificate of the Chief Engineer of the said railway, in the form set out in schedule B hereto, or to the like effect, to be expended by them *pro rata* on each mile of railway built between the point of commencement nearest to Simcoe; and the said certificate of the Chief Engineer shall set out the portion of the railway to which the money to be paid out is to be applied, the total amount expended on such portion to the date of such certificate, and that the sum so certified does not exceed the *pro rata* amount to be applied on the work done; and the said certificate shall be attached to the cheques of the said trustees, respectively, as they shall be drawn; and the wrongfully granting of any such certificate by such Engineer shall be punishable by fine, not exceeding two thousand dollars, and, in failure of payment thereof, to be imprisoned for a period not exceeding a year; and the Act of any two such trustees shall be as valid and binding as if the three had agreed. *Terms of the trust.*

12. As soon as shares to the amount of thirty thousand dollars of the capital stock of the said company shall have been subscribed, and ten per centum thereof paid into some chartered bank, the directors shall call a general meeting of the subscribers for the said capital stock, who shall have so paid up ten per centum thereof for the purpose of electing directors of the said company. *General meeting when to be called.*

13. In case the provisional directors neglect to call a meeting for the space of three months after such amount of the capital stock shall have been subscribed, and ten per centum thereof so paid up, the same may be called by any five of the subscribers who *Who may call general meeting.*

whom shall have so paid up ten per centum, and who are subscribers among them for not less than one thousand dollars of the said capital stock, and who have paid up all calls thereon.

Notice of  
general meet-  
ing.

**14.** In either case, notice of the time and place of holding such general meeting shall be given by publication in one newspaper in the town of Simcoe, once in each week, for the space of at least one month, and in the *Ontario Gazette*; and such meeting shall be held in the town of Simcoe at such place therein, and on such day, as may be named by such notice.

Election of di-  
rectors.

**15.** At such general meeting the subscribers for the capital stock assembled, who shall have so paid up ten per centum thereof, with such proxies as may be present, shall choose five persons to be directors of the said company, and may also make or pass such rules, regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act.

Proviso.

Their qualifi-  
cation.

**16.** No person shall be qualified to be elected as such director by the shareholders, unless he be a shareholder holding at least ten shares of stock in the company, and unless he has paid up all calls thereon.

Annual meet-  
ings.

**17.** Thereafter the general annual meeting of the shareholders of the said company shall be held in such place in the town of Simcoe, and on such days, and at such hours, as may be directed by the by-laws of the said company, and public notice thereof shall be given at least thirty days previously in the *Ontario Gazette*, and in one or more newspapers published in the counties through which the said road may pass.

Special gene-  
ral meetings.

**18.** Special general meetings of the shareholders of the said company may be held at such places in the town of Simcoe, and at such times, and in such manner, and for such purposes, as may be provided by the by-laws of the said company, and after due notice shall be given as aforesaid.

Bonds.

**19.** The directors of the said company, after the sanction of the shareholders shall have been first obtained at any special general meeting to be called, from time to time, for such purpose, but limited to the terms of this Act, shall have power to issue bonds made and signed by the President or Vice-President of the said company, and countersigned by the Secretary and Treasurer, and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking; and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking, and the property of the Company, real and personal, and then existing, and at any time thereafter acquired; and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and the prop-  
erty

erty of the company as aforesaid: Provided, however, that the whole amount of such issue of bonds shall not exceed in all the sum of two hundred thousand dollars, nor shall the amount of such bonds issued at any one time be in excess of the amount of the actual paid up cash instalments on its share capital, together with the amount of paid up municipal and other bonuses, and which have been actually expended in surveys, and in works of construction upon the line: Pro-  
 Viso as to mode of issue.  
 Viso.  
 provided also, that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then, at the next ensuing general annual meeting of the said company, all holders of bonds shall have and possess the same rights, privileges and qualifications for directors, and for voting as are attached to shareholders: Provided that the bonds and any trans-  
 Viso.  
 fers thereof shall have been first registered in the same manner as is provided for the registration of shares.

**20.** All such bonds, debentures, mortgages and other securities, and coupons and interest warrants thereon, respectively, may be made payable to bearer, and transferable by delivery; Payable to bearer and transferable by delivery.  
 and any holder of any such, so made payable to bearer, may sue at law thereon in his own name.

**21.** The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made or endorsed, or any such bill of exchange drawn, accepted or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, and, under the authority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shewn; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the President or Vice-President, or the Secretary and Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors, as herein provided and enacted: Pro-  
 Company may become party to notes, etc.  
 Viso.  
 vided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

**22.** Every shareholder of one or more shares of the said capital stock, and bondholders as provided in section twenty-one of this Act in the same ratio as shareholders, shall, at any general meeting of the shareholders, be entitled to one vote for every share held by him. One vote to each share.

**23.** At all meetings of the company, the stock held by  
 Who to vote.  
 municipal



municipal and other corporations may be represented by such person as they shall respectively have appointed in that behalf by by-law; and such persons shall, at such meeting, be entitled equally with other shareholders to vote by proxy; and no shareholder shall be entitled to vote on any matter whatever, unless all calls due on the stock held by such shareholder shall have been paid up at least one week before the day appointed for such meeting.

Quorum.

24. Any meeting of the directors of the said company regularly summoned, at which not less than three directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors.

Amount payable on subscribing.

25. On the subscription for shares of the said capital stock, each subscriber shall pay forthwith to the directors, for the purposes set out in this Act, ten per centum of the amount subscribed by him; and the said directors shall deposit the same in some chartered bank to the credit of the said company, and not to be taken out therefrom, except for the purposes of the company.

Calls.

Proviso.

26. Thereafter calls may be made by the directors, for the time being, as they shall see fit: Provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each subscriber, and at not less intervals than one month.

May purchase lands for gravel pits, etc.

27. Whenever, for the purpose of procuring sufficient lands for stations or gravel pits for the use of the said railway, it is enacted, that the said company may purchase, hold, use or enjoy such lands, and also the right of way thereto, if the same be separated from their railway, in such manner and for such purposes connected with the construction, maintenance or use of the said railway, as they may deem expedient, and to sell and convey the same, or parts thereof, from time to time, as they may deem expedient.

Forfeiture of Act for non-user.

28. This Act and all the provisions thereof, shall become null and void, unless the construction of the said railway be commenced within two years, and completed within five years after the passing of the same.

#### SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS, that I (or we) [*insert also the name of the wife or any other person who may be a party*] in consideration of                      dollars paid to me (*as the case may be*) by the Norfolk Railway Company, the receipt whereof is hereby acknowledged, do grant and convey [*and I the said* do grant and release, or do bar my dower in, *as the*

*the case may be*] all that certain parcel [*or those certain parcels, as the case may be*] of land, situate, [*describe the land,*] the same having been selected and laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said, the Norfolk Railway Company, their successors and assigns.

As witness my (or our) hand and seal (or hands and seals),  
this                      day of                      , one thousand eight hundred  
and

Signed, sealed and delivered in the presence of

(L. S.)

#### SCHEDULE B.

##### *Chief Engineer's Certificate.*

Norfolk Railway Company's Office.

Engineer's Department, Simcoe,

18 .

No.

*Certificates to be attached to cheques drawn on the Norfolk Railway Municipal Trust Account in Trustees hands, and given under sections                      of Cap.                      Vic.*

I,                      Chief Engineer for the Norfolk Railway, do hereby certify that there has been expended in the construction of mile No.                      (the said mileage being numbered consecutively from the point of commencement hereof to the terminus,) the sum of                      dollars to date, and that the total *pro rata* amount due for the same from the said Municipal Trust account, amounts to the sum of                      dollars, which said sum of                      dollars is now due and payable, as provided under the said Act.

*Chief Engineer.*

#### CAP. LIX.

An Act to Amend and Confirm the Charter of "The Ottawa and Gloucester Road Company."

[Assented to 23rd January, 1869.]

WHEREAS, "The Ottawa and Gloucester Road Company," Preamble.  
by registration of the requisite instruments in the Registry office of the county of Carleton, on the twentieth day of  
January,

January, one thousand eight hundred and sixty-five, became incorporated under the provisions of the Act of the late Province of Canada, entitled, *An Act respecting Joint Stock Companies, for the Construction of Roads and other Works in Upper Canada*, but failed to complete their said road within the time required by the seventy-first section thereof; and doubts have arisen as to the legality of a by-law of the county council of the county of Carleton, (in which county the said road is situated,) granting further time for the completion thereof, involving a forfeiture of their corporate powers: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

By-law of  
county council  
confirmed.

1. The said by-law of the county council of the county of Carleton, made under the provisions of the seventy-first section of the said Act, chapter forty-nine of the Consolidated Statutes of Upper Canada, granting further time to "The Ottawa and Gloucester Road Company" for the completion of their said road, and numbered one hundred and thirty-six, was and is, and shall continue to be, legally operative, made and binding for the purposes therein contained.

Incorporation  
and corporate  
acts, etc., con-  
firmed.

2. "The Ottawa and Gloucester Road Company" are hereby declared to be, and to have been, since the registration of the requisite instruments as aforesaid, an incorporated company under such name; and all tolls collected, calls for the payment of stock, contracts, agreements, bonds, deeds, conveyances, matters or things, made, received, executed, granted or done, are, and shall be legal and binding; and the said company shall continue to possess all the corporate and other powers conferred by the said above-mentioned Act.

## CAP. LX.

### An Act Amending the "Act to Incorporate the Port Whitby and Port Perry Railway Company."

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS the Port Whitby and Port Perry Railway Company have petitioned that the Act of the Legislature of Ontario, passed in the thirty-first year of Her Majesty's reign, entitled, *An Act to Incorporate the Port Whitby and Port Perry Railway Company* be amended, by striking out the twenty-third section of the said Act; and whereas it is expedient that the said Act should be amended according to the prayer of their petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—



1. In lieu of the said twenty-third section the following section shall be substituted and read as part of the said Act: 31 Vic., chap. 42, sec. 23, amended.  
 "It shall be lawful for the directors of the said company, for the time being, to make, execute and deliver all such bonds, debentures, mortgages or other securities as to the said directors, for the time being, shall, from time to time, seem most expedient for raising the necessary capital, for the time being authorized to be raised by the said company, or for raising any part thereof; the said bonds, debentures and mortgages not to exceed in amount the paid up stock of the company, together with the municipal or other bonuses expended upon such railway."

2. The said Port Whitby and Port Perry Railway Company and their servants, shall have full power and authority to continue and extend the construction of their railway to such point upon the waters of Lake Simcoe at or near Beaverton, as they may in their discretion select, by such course as to the directors of the said company may seem expedient; and also in the same manner to lay out, construct and build a branch of such railway from such part thereof as the directors of the said company may choose, into what is known as the village of Uxbridge. Company may extend their road.

3. Section seventeen of the said Act is hereby amended, by inserting at the end thereof the words: "and no by-law made in pursuance of the powers in this Act conferred, shall be invalid merely by reason of any want of compliance with the provisions of the said sections: Provided such by-law shall have been approved of by a majority of the persons voting and qualified to vote on such by-law, and shall settle such sufficient and special rates in the manner required by the said sections." 31 Vic., chap. 42, sec. 17, amended. Proviso.

4. All the clauses and provisions contained in the said Act incorporating the said Port Whitby and Port Perry Railway Company, except clause seventeen thereof, and the several powers and authorities conferred upon such company by such Act, and all subsequent Acts relating thereto, and the several clauses of the General Railway Act, mentioned and referred to in the said Act, shall apply to the extended powers conferred hereby; and the extension hereby authorized shall be commenced within two years, and completed within five years, after the passing of this Act, or the charter for the said extension shall be forfeited. Certain provisions in previous Acts and Railway Act to apply. When extension to be commenced, etc.

## CAP. LXI.

## An Act to Incorporate the Peterborough and Haliburton Railway Company.

[Assented to 23rd January, 1869.]

## Preamble.

WHEREAS the construction of a railway from the town of Peterborough, or from some point north of the town of Peterborough, on the Peterborough and Chemong Railway, or the Cobourg and Peterborough Railway, to the Town Plot of Haliburton, in the township of Dysart, or to some point beyond the Town Plot of Haliburton, in the county of Peterborough, would develop the present resources of the county of Peterborough, and open for settlement a large tract of country now unimproved and waste, and it is expedient to grant a charter for the construction of such railway: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

## Incorporation.

1. P. M. Grover, John Carnegie jr., George Read, William Adam Scott, Elias Burnham, William Hepburne Scott, James Stevenson, S. S. Peck, Nesbit Kirchoffer, Francis Beamish, Arthur Trefusis Henenge Williams, Alex. J. Cattanaach, Charles James Blomfield, together with such persons and corporations as shall, in pursuance of this Act, become shareholders of the said company hereby incorporated, are hereby constituted and declared to be a body corporate and politic by the name of "The Peterborough and Haliburton Railway Company."

## Certain clauses of the Railway Act to apply.

2. The several clauses of the Railway Act of the Consolidated Statutes of Canada and the amendments, with respect to the first, second, third, fourth, fifth and sixth clauses thereof, and also the several clauses thereof with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Action for Indemnity and Fines and Penalties and their Prosecution," "By-laws," "Notice, &c.," "Working of the Railway" and "General Provisions," shall be incorporated with, and be deemed to be part of this Act, and shall apply to the said company and to the railway to be constructed by them, except only so far as they may be inconsistent with the express enactments hereof; and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act as aforesaid.

## The line of

3. The said company hereby incorporated, and their servants

vants and agents, shall have full power under this Act to construct a railway from any point in the town of Peterborough, or from any point north of the town of Peterborough, on the Peterborough and Chemong Railway, or the Cobourg and Peterborough Railway, to the Town Plot of Haliburton, in the township of Dysart, as to the said company may seem desirable, with full power to pass over such portions of the county of Peterborough, north of the town of Peterborough, as may be determined upon, and to carry the said railway through the Crown Lands lying between the same.

4. The said company shall have further power to purchase, build, complete, fit out and charter, sell, or dispose of, work and control and keep in repair one steam vessel or more, from time to time, to ply on the rivers and lakes adjacent to the said railway, in connection with the said railway, and also to make arrangements and agreements with steamboat proprietors, by chartering or otherwise, to run other vessels on inland or other lakes or rivers connecting with the said railway.

5. The gauge of the said railway shall be five feet six inches; and the said company may lay down rails of wood, iron, or other material in their discretion.

6. Conveyances of lands to the said company, for the purposes of this Act, may be made in the form set out in the schedule hereunder written, or to the like effect; and such conveyances shall be received by the several Registrars, and be registered by duplicates thereof in such manner, and upon such proof of execution, as is required under the registry laws of Ontario; and no Registrar shall be entitled to demand more than fifty cents for registering the same, including all entries and certificates thereof, and certificates endorsed on the duplicates thereof.

7. From and after the passing of this Act, the said P. M. Grover, John Carnegie jr., George Read, William Adam Scott, Elias Burnham, William Hepburne Scott, James Stevenson, S. S. Peck, Nesbit Kerchoffer, Francis Beamish, Arthur Trefusis Henenge Williams, Alexander J. Cattanach, Charles James Blomfield, shall be provisional directors of the said company.

8. The persons named as provisional directors in the next preceding clause shall hold office as such until the first election of directors under this Act, and shall have power and authority, immediately after the passing of this Act, to open stock books, and procure subscriptions of stock for the undertaking, giving at least four weeks previous notice by advertisement in the newspapers hereinafter mentioned, and in the *Ontario Gazette*, of the time and place of their meeting, to receive subscriptions of stock; and the said provisional directors may cause surveys and plans to be made and executed, and to acquire any plans and surveys



surveys now existing; and it shall be their duty, as hereinafter provided, to call a general meeting of shareholders for the election of directors.

Capital of the company.

**9.** The capital of the company hereby incorporated, shall be two hundred and fifty thousand dollars (with power to increase the same in the manner provided by the Railway Act), to be divided into five thousand shares of fifty dollars each; and shall be raised by the persons and corporations who may become shareholders in such company; and the money so raised shall be applied, in the first place, to the payment of all expenses for making the surveys, plans and estimates connected with the works hereby authorized; and all the remainder of such money shall be applied to the making, equipment, and completion of the said railway, and the other purposes of this Act, and to no other purpose whatever.

Municipalities may aid by onus, etc.

**10.** And it shall further be lawful for any municipality or municipalities, through any part of which, or near which, the railway or works of the said company shall pass or be situated, or which may be benefited thereby, to aid and assist the said company, by loaning or guaranteeing, or giving money by way of bonus or other means to the company, or issuing municipal bonds to or in aid of the company, and otherwise in such manner and to such extent, as such municipalities, or any of them, shall think expedient: Provided always, that no such aid, loan, bonus or guarantee shall be given, except after the passing of by-laws for the purpose, and the adoption of such by-laws by the ratepayers, as provided in the Railway Act: Provided also, that any such by-law to be voted shall be made in conformity with the laws of this Province respecting municipal institutions.

Proviso.

Proviso.

Debentures thereof to be delivered to trustees appointed.

**11.** Whenever any municipality shall grant a bonus to aid the said company in the making, equipment and completion of the said railway, the debentures therefor shall, within six weeks after the passing of the by-law authorizing the same, be delivered to three trustees to be named, one by the Lieutenant Governor in Council, one by the said company, and one by the Warden of the county of Peterborough, the Reeves of the townships of Harvey, Galway, Snowden and Dysart, and the Mayors of Peterborough and Port Hope, all such trustees to be residents in the county of Peterborough: Provided that if the Lieutenant Governor in Council shall refuse or neglect to name such trustee within six weeks after he shall have been duly notified of the appointment of the other two trustees, the said company shall be at liberty to name one in the place of the one to have been named by the Lieutenant Governor in Council: Provided also, that the said Warden, Reeves and Mayors shall appoint the said trustee, to be appointed by them, by the vote of a majority of them who shall attend the meeting for that purpose, to be held at such time and place as the said company

Proviso.

Proviso.

company may appoint for that purpose, notice of which shall be sent to each of them by mail, at least fourteen days before the day appointed; and if they then fail or neglect to name such trustee, the said company shall be at liberty to name one in the place of the trustee to have been named by them; and any trustee appointed may be removed, and a new trustee appointed in his place, at any time by the consent of the Lieutenant Governor in Council, the majority of the said Warden, Reeves and Mayors, and the said company.

**12.** The said trustees shall receive the said debentures in trust: Firstly, to convert the same into money; Secondly, to deposit the amount realized from the sale of the said debentures in some one of the chartered banks having an office in the town of Peterborough, under the style of the Peterborough and Haliburton Railway Municipal Trust Account; and to pay the same out to the said company, from time to time, on the certificate of the Chief Engineer of the said railway, in the form set out in schedule B hereto, or to the like effect, to be expended by them *pro rata* on each mile of railway built between the point of commencement nearest to Peterborough and the Town Plot of Haliburton; and the said certificate of the Chief Engineer shall set out the portion of the railway to which the money to be paid out is to be applied, the total amount expended on such portion to the date of such certificate, and that the sum so certified does not exceed the *pro rata* amount to be applied on the work done; and the said certificate shall be attached to the cheques of the said trustees respectively, as they shall be drawn; and the wrongfully granting of any such certificate by such Engineer shall be punishable by a fine not exceeding two thousand dollars, or, in failure of the payment thereof, to be imprisoned for a period not exceeding one year; and the Act of any two such trustees shall be as valid and binding as if the three had agreed.

Their duty, and how proceeds of debentures to be paid out.

**13.** As soon as shares to the amount of fifty thousand dollars of the capital stock of the said company shall have been subscribed, and ten per centum thereof paid into some chartered bank, the directors shall call a general meeting of the subscribers for the said capital stock, who shall have so paid up ten per centum thereof for the purpose of electing directors of the said company.

General meeting when to be called.

**14.** In case the provisional directors neglect to call such meeting for the space of three months after such amount of the capital stock shall have been subscribed, and ten per centum thereof so paid up, the same may be called by any five of the subscribers who shall have so paid up ten per centum, and who are subscribers among them for not less than one thousand dollars of the said capital stock, and who have paid up all calls thereon.

By whom called.

Notice of general meeting.

**15.** In either case, notice of the time and place of holding such general meeting shall be given by publication in one newspaper in each of the towns of Peterborough and Port Hope, once in each week for the space of at least one month, and in the *Ontario Gazette*; and such meeting shall be held in the town of Peterborough at such place therein, and on such day, as may be named by such notice.

Election of directors.

**16.** At such general meeting the subscribers for the capital stock assembled, who shall have so paid up ten percentum thereof, with such proxies as may be present, shall choose nine persons to be directors of the said company, and may also make or pass such rules, regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act.

Proviso.

Qualification.

**17.** No person shall be qualified to be elected as such director by the shareholders, unless he be a shareholder holding at least ten shares of stock in the company, and unless he has paid up all calls thereon.

Annual meetings.

**18.** Thereafter, the general annual meeting of the shareholders of the said company, shall be held in such place in the town of Peterborough, and on such days, and at such hours, as may be directed by the by-laws of the said company; and public notice thereof shall be given at least thirty days previously in the *Ontario Gazette*, and in one or more newspapers published in the counties of Peterborough and Durham.

Special general meetings.

**19.** Special general meetings of the shareholders of the said company may be held at such places in the town of Peterborough, and at such times, and in such manner, and for such purposes as may be provided by the by-laws of the said company, and after due notice thereof shall be given as aforesaid.

Bonds may be issued.

**20.** The directors of the said company, after the sanction of the shareholders shall have been first obtained at any special general meeting to be called, from time to time, for such purpose, but limited to the terms of this Act, shall have power to issue bonds made and signed by the President or Vice-President of the said company, and countersigned by the Secretary and Treasurer, and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking; and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking, and the property of the company, real and personal, and then existing, and at any time thereafter acquired; and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata*, with all the other holders thereof, upon the undertaking and the property of the company as aforesaid: Provided, however, that the whole amount of such issue of bonds shall not exceed in all the sum of two hundred and fifty thousand dollars; nor shall the

To be a preferred debt and charge.

Proviso as to amount limited.



the amount of such bonds issued at any one time be in excess of the amount of the actual paid up cash instalments on its share capital, together with the amount of paid up municipal and other bonuses, and which have been actually expended in surveys, and in works of construction upon the line: Provided also, that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then at the next ensuing general annual meeting of the said company, all holders of bonds shall have and possess the same rights, privileges and qualifications for directors and for voting, as are attached to shareholders: Provided that the bonds and any transfers thereof shall have been first registered in the same manner as is provided for the registration of shares.

Proviso as to interest in arrear.

Proviso.

**21.** All such bonds, debentures, mortgages and other securities, and coupons and interest warrants thereon, respectively, may be made payable to bearer, and transferable by delivery; and any holder of any such, so made payable to bearer, may sue at law thereon in his own name.

Bonds transferable by delivery.

**22.** The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made or endorsed, or any such bill of exchange drawn, accepted or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, and under the authority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shewn; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the President or Vice-President, or the Secretary and Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors, as herein provided and enacted; Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

Company may become party to bills and notes.

Proviso as to banking.

**23.** Every shareholder of one or more shares of the said capital stock and bondholders, as provided in section twenty-one of this Act, in the same ratio as shareholders, shall, at any general meeting of the shareholders, be entitled to one vote for every share held by him.

Votes.

**24.** At all meetings of the company, the stock held by municipal and other corporations may be represented by such person as they shall respectively have appointed in that behalf by by-law; and such persons shall, at such meeting, be entitled

All shareholders may vote by proxy if not in arrear.

equally with other shareholders to vote by proxy; and no shareholder shall be entitled to vote on any matter whatever, unless all calls due on the stock held by such shareholder shall have been paid up at least one week before the day appointed for such meeting.

Quorum.

**25.** Any meeting of the directors of the said company regularly summoned, at which not less than five directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors.

Ten per cent.  
to be paid on  
subscribing.

**26.** On the subscription for shares of the said capital stock, each subscriber shall pay forthwith to the directors, for the purposes set out in this Act, ten per centum of the amount subscribed by him; and the said directors shall deposit the same in some chartered bank to the credit of the said company, and not to be taken out therefrom, except for the purpose of the company.

Calls.  
Proviso.

**27.** Thereafter calls may be made by the directors, for the time being, as they shall see fit: Provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each subscriber, and at not less intervals than one month.

The company  
may purchase  
lands and way  
thereto for  
certain pur-  
poses.

**28.** Whenever it shall be necessary, for the purpose of procuring sufficient lands for stations or gravel pits, or other purposes, for constructing, maintaining and using the said railway, it shall be necessary to purchase more land than is required for such stations, or gravel pits or other purposes, the said company may purchase, hold, use or enjoy such lands, and also the right of way thereto, if the same be separated from their railway, in such manner, and for such purposes connected with the constructing, maintenance or use of the said railway, as they may deem expedient, and to sell and convey the same, or parts thereof, from time to time, as they may deem expedient.

Forfeiture for  
non-user.

**29.** This Act, and all the provisions thereof, shall become null and void, unless the construction of the said railway be commenced within two years, and completed within five years, after the passing of the same.

#### SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS, that I (or we) (*insert also the name of the wife or any other person who may be a party*) in consideration of \_\_\_\_\_ dollars paid to me (*as the case may be*) by the Peterborough and Haliburton Railway Company, the receipt whereof is hereby acknowledged, do grant and convey (and I the said \_\_\_\_\_ do grant and release, or do  
bar

bar my dower in, *as the case may be*) all that certain parcel (*or those certain parcels, as the case may be*) of land, situate, (*describe the land,*) the same having been selected and laid out by the said company for the purposes of their Railway, to hold with the appurtenances, unto the said, the Peterborough and Haliburton Railway Company, their successors and assigns.

As witness my (*or our*) hand and seal (*or hands and seals*)  
this                      day of                      , one thousand eight hundred  
and

Signed, sealed and delivered in the presence of  
(L. S.)

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SCHEDULE B.

*Chief Engineer's Certificate.*

Peterborough and Haliburton Railway Company's Office.

Engineer's Department, Peterborough, 186 .

No.

*Certificates to be attached to cheques drawn on the Peterborough Railway Municipal Trust Account in Trustees' hands, and given under Sections              of Cap.              Vic.*

I,                      Chief Engineer for the Peterborough and Haliburton Railway, do hereby certify, that there has been expended in the construction of mile No.              (the said mileage being numbered consecutively from the point of commencement hereof to the town of Peterborough) the sum of              dollars to date; and that the total *pro rata* amount due for the same from the said Municipal Trust Account, amounts to the sum of              dollars, which said sum of              dollars is now due and payable as provided under the said Act.

*Chief Engineer.*



## CAP. LXII.

An Act respecting "The Colonial Securities Company (limited)," to Facilitate proof of its Incorporation, for the Execution of Instruments, and for other purposes.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS the Colonial Securities Company (limited) was duly incorporated under the provision of the Imperial Joint Stock Companies Act, 1862; and whereas some of the objects for which the said company was established were the transaction of the business then being carried on by the Canada Agency Association (limited), and the purchase and acquisition of that business, and the investment of moneys on account of other persons or companies investing moneys, through the agency of the said company, on the security of real or other property in any British Colony or Dependency of the British Crown; and whereas the said company hath been and is engaged in carrying on its said business in the Province of Ontario; and whereas the mortgages and securities for moneys invested on real estate by the Canada Agency Association (limited), and by the Colonial Securities Company (limited), respectively, were taken, and are held, in the names of the trustees appointed by the said companies, respectively; and whereas the said company hath petitioned for an Act to facilitate the proof of its incorporation, for the execution of instruments, and otherwise to enable it more easily to carry on its transactions, and it is expedient to comply with such petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Attorneys and trustees may be appointed to execute deeds, etc.;

1. The Colonial Securities Company (limited) may, by any instrument under its corporate seal, from time to time, appoint one or more attorney or attorneys, trustee or trustees in this Province, by whom the said company may execute all such deeds, conveyances, leases, discharges of mortgages and other instruments of any kind as may be necessary in carrying on the objects of the said company,

and may have the custody of the company's seal, etc.

2. The said company may commit to the custody of such attorney or attorneys, trustee or trustees for the time being, an official seal for the purpose of executing such deeds and instruments as aforesaid, and such seal, from time to time, may break, alter or renew; and such seal shall be deemed and taken to be the corporate seal of the said company for the execution of instruments within this Province; and every deed, conveyance, lease, discharge of mortgage, or other written instrument of any kind purporting to be under the corporate seal of the said

said company, or under the aforesaid official seal of the said company, entrusted to such attorney or attorneys, trustee or trustees, shall be receivable in evidence as *prima facie* proof in any Court of law or equity, or in any legal or equitable proceeding, or before any Court or tribunal in this Province, that such deed, conveyance, lease, discharge of mortgage, or other written instrument has been duly executed by the said company without any proof of the said corporate or official seal, or either of them, or of the appointment, signature or official character of the person or persons purporting to have affixed such seal or seals, or to have acted as such attorney or attorneys, trustee or trustees.

3. Any deed, conveyance, lease, discharge of mortgage, or other instrument purporting to be under the corporate seal of the said company, or under the official seal of the said company, now or hereafter to be used by the attorney or attorneys, trustee or trustees of the said company in this Province, under the foregoing provisions of this Act, shall be considered as duly executed by the said company or their said attorney or attorneys, trustee or trustees, as the case may be, for registration purposes upon being produced to the proper Registrar in that behalf, without any further proof or verification: Provided Instruments under such seal deemed duly executed. the same is otherwise in accordance with the registry laws in force; and such Registrar shall register the same without any further proof of such corporate or official seal or other proof whatever. Provido.

4. The said company may register a copy of their Memorandum and Articles of Association, verified by the oath of their Secretary in England, and under their corporate seal, in the office of the registry of deeds in and for the city of Toronto; and a printed or written copy of such Memorandum and Articles of Association, certified by the Registrar of the city of Toronto under his hand, to be a true copy of the said Memorandum and Articles of Association as registered in his office, shall be *prima facie* evidence of the same respectively, and of all the particulars contained therein respectively, in any Court of law or equity, or in any judicial proceeding, or before any Court or tribunal in this Province, in any matter or cause whatsoever. Verified copy of articles of association may be registered, etc.

5. All lands, mortgages, securities, leases, bonds or other instruments held by or in the name or names, of the trustee or trustees of the Canada Agency Association (limited), or of the said Colonial Securities Company (limited), respectively, shall be deemed and taken to be vested in the Colonial Securities Company (limited), so that the same may be sold, assigned, conveyed, collected, realized, dealt with, released or discharged by the Colonial Securities Company (limited), under the provisions of this Act; and all releases and discharges, if any, of the said mortgages or securities executed by the trustee or trustees, Provision as to lands, etc., held by the Canada Agency Association. attorney

attorney or attorneys of the said company, shall be valid and effectual for revesting the title to the mortgaged lands and premises conveyed or assigned by any mortgage so released and discharged in the mortgagor, his heirs or assigns.

### CAP. LXIII.

An Act to Constitute and Enable the Trustees of the Estate of Alexander Wright, deceased, to Sell and Dispose of his Real Estate, and Vest its proceeds for the Support and Education of his family.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS Alice Wright, widow of the late Alexander Wright, late of the township of Minto, in the county of Wellington, yeoman, hath, by her petition, set forth, that the said Alexander Wright was instantly killed in the month of April, one thousand eight hundred and sixty-eight, by a falling tree; that he died intestate, leaving a widow and five infant children, the eldest being about eight years, and the youngest about one year old; that the property left by the said deceased is unencumbered, and consists of farm stock and implements, worth about three hundred and fifty dollars, of money about two hundred dollars, and of fifty acres of land, thirty-five of which are under cultivation, and the whole worth between one thousand and twelve hundred dollars; that the said children, being females, are unable to work the said farm, and that if rented, it would not yield more than about fifty dollars annually, while, if sold, and the proceeds invested at interest, double that amount could be obtained, and would better maintain and educate the said family; and whereas the said widow, Alice Wright, hath, by her petition, prayed for the enactments hereinafter contained, and it is expedient to grant the prayer thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Estate vested  
in certain trustees,

who may sell  
and apply proceeds.

1. From and after the passing of this Act, all the real and personal estate of the said Alexander Wright shall be, and the same is, hereby vested absolutely in James Christie of the township of Minto, Esquire, James Laidlaw of the township of Guelph, Esquire, and Alice Wright, widow of the said Alexander Wright, as joint tenants in fee, and the survivor and survivors of them, upon the trusts hereinafter mentioned, that is to say, to collect, get in, and to sell and dispose of the said estate upon such terms and in such manner as they may deem most advantageous, and to pay thereout the debts of the said Alexander Wright,



Wright, if any there be, and to invest and apply the residue of the proceeds to and for the support and education of the said family.

2. The transfers and conveyances of the said estate, made by the said James Christie, James Laidlaw and Alice Wright, or the survivor or survivors of them, shall be good and effectual in law to pass such estate. Their conveyances effectual;

3. The receipt or receipts in writing, and duly signed by the said trustees, or the survivor or survivors of them, shall be a sufficient discharge for the purchase money of any property hereby authorized to be sold by them. and their receipts a sufficient discharge.

4. Neither of them the said James Christie, James Laidlaw, or Alice Wright shall be liable for the default or neglect, or for the misapplication or non-application of the other or others of them, of the moneys arising from the said estate, but each shall be answerable for his or her own wilful neglect or default only, and not further or otherwise. Trustees not liable for each other's default.

#### CAP. LXIV.

### An Act to Grant Certain Powers to the Ontario Farmers' Mutual Insurance Company.

[Assented to 23rd January, 1869.]

**W**HEREAS the Ontario Farmers' Mutual Insurance Company Preamble. have, by their petition, set forth that they have been organized, and have carried on business in the town of Whitby, in the County of Ontario, and Province of Ontario, since the month of June, one thousand eight hundred and sixty-seven, as a Mutual Fire Insurance Company, under the Act respecting Mutual Insurance Companies; and whereas for the better management of the affairs of the said company, and to enable them to compete successfully with similar companies now enjoying the privileges in the said petition prayed for, it is expedient that the prayer of the said petition be granted: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said company may hold their annual meeting for the election of directors, at such time in each year as may appear most expedient to the Board of directors thereof. Annual meeting.

2. No agent or sub-agent of the said company shall receive or hold proxies for voting at meetings of the said company; and no Proxies to be entered one proxy

month before  
meeting.

proxy to vote thereat shall be valid, unless the same shall have been deposited with the Secretary for registration at least one month before the meeting at which such proxies shall be acted upon.

Separation of  
business into  
three branches.

3. The said company may separate their business into three branches or departments: first, the Farmers' Branch; second, Towns' and Villages' Branch; and third, the Manufacturers' Branch.

Cash premi-  
ums on poli-  
cies.

4. The said company may issue policies and collect premiums thereon in cash for insurances for terms of one or more years, not exceeding five; and parties so paying in cash shall not be liable to any further charge or assessment whatsoever, nor shall they be held to be members of the said company in any respect.

Equalizing  
assessments.

5. For the purpose of equalizing the assessments, which the said company is now authorized by law to make, and of providing for the speedy and certain payment of losses incurred, and for expenses of management, the said company may, from time to time, raise an equalization or reserve fund by assessing its premium notes in such manner and at such times as shall appear most expedient to the directors: Provided always, that the sum to be paid by each member shall be in proportion to his premium note, and shall not exceed one per centum for the three years' risk on the one hundred dollars insured in the Farmers' Branch; five per centum for the three years' risk on the one hundred dollars insured in the Towns' and Villages' Branch; and fifteen per centum on the one hundred dollars for the three years' risk insured in the Manufacturers' Branch, until the whole amount so raised shall have become exhausted.

Proviso.

Reinsurance.

6. The directors of the said company may make arrangements with any other insurance company, for the reinsurance of risks on their own policies, on such conditions, with respect to the payment of premiums thereon, as may be agreed between such companies.

Policies may  
be extended.

7. Policies issued by the company for two years or less, may be extended from year to year, for three years further, by renewal receipts, signed by the President or Vice-President of the company, and countersigned by the Secretary.

Head office.

8. The head office of the said company shall be in the town of Whitby, in the county and Province of Ontario.

Assessment  
receipts.

9. No assessment receipt shall be binding on the company, unless signed by the President or Vice-President, and countersigned by the Secretary.

Con. Stat. U.  
C., chap. 52.

10. The Act respecting Mutual Insurance Companies being chapter fifty-two of the Consolidated Statutes of Upper Canada, and

and the Acts in amendment thereof, and the Act of the Province of Ontario respecting Mutual Insurance Companies, being thirty-one Victoria, chapter thirty-two, except in so far as the same may be inconsistent with the provisions and enactments of this Act, shall apply in all their provisions to the Ontario Farmers' Mutual Insurance Company.

## CAP. LXV.

An Act to Amend the Act of the late Province of Canada, Twenty-five Victoria, Chapter Seventy-two, by Declaring the Intention of the same, and Confirming Conveyances made by the Trust and Loan Company thereunder.

[Assented to 23rd January, 1869.]

**W**HEREAS by an Act of the Parliament of the late Province of Canada, passed in the twenty-fifth year of the reign of Her Majesty Queen Victoria, and chaptered seventy-two, entitled, *An Act for Facilitating the Conveyance by the Trust and Loan Company of Upper Canada, of lands in the Province of Canada, by and through their Commissioners or Attorneys*, after reciting, as is recited in the preamble of the said Act, that provision was made for giving publicity to and perpetuating the evidence of the appointments, from time to time made, of the persons authorized to conduct the affairs of the said company in Canada, and to execute deeds and other documents, and perform other acts on behalf of the said company, and for facilitating the conveyance, transfer, release and acquittance of real estate and other property by the said company, through the said persons; and whereas the said company did, from time to time, appoint two commissioners or attorneys, whom and each of whom the said company, by commission or power of attorney, made, registered and advertized in compliance with the provisions of the said Act, empowered, jointly and severally, to conduct the business of the said company in Canada; and whereas, from the death of one of such commissioners, it has happened, that at times there was only one commissioner or attorney authorized or empowered by the said company to conduct their business as aforesaid; and whereas it was the intention of the said Act to authorize the said company to appoint either one or more commissioner or commissioners, attorney or attorneys, for the purposes therein mentioned; and, in case of the appointment of more than one, to empower each severally to do and execute, on behalf of the said company, all and every of the matters and things in any such commission or power of attorney expressed, and to execute, under his private seal, valid conveyances and releases of real estate and other property of the said company;



company; and whereas many such conveyances and releases have been so executed by a single commissioner, so appointed as aforesaid; and whereas doubts have arisen whether such intention sufficiently appears in the said Act, and it is expedient that such doubts should be removed, and that the meaning of the said Act should be declared, and that all conveyances and releases heretofore made and executed in manner aforesaid, by a single commissioner, should be confirmed: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Authority to  
appoint com-  
missioners.

1. It is hereby declared, that, by the said Act, the said Company were and are authorized and empowered to appoint one or more commissioner or commissioners, and, by any commission or power of attorney, under the corporate seal of the said company, registered and advertized pursuant to the provisions of the said Act, to give to such commissioner or commissioners, and to each of them, jointly and severally, and to the survivor of them, in case of the appointment of more than one, full power and authority to conduct the affairs of the said company in Canada, and to execute, in manner in the said Act provided, any and all conveyances and releases as aforesaid; and that all such conveyances and releases heretofore so executed by a single commissioner were, and the same are, declared to have been, and all such releases and conveyances hereafter so executed, shall be deemed to be, properly executed, and valid and effectual, to all intents and purposes, and to as full an extent as if the same had been executed by the said company under their corporate seal; and no further or other evidence of the sufficiency of such execution, or of the power or authority of the person or persons executing the same, shall be required for any purpose, or by any Court or person, than is required by the said Act; nor shall the said company, or any such commissioner or commissioners, be bound to furnish or produce to any purchaser or person dealing with the said company, any certified or other copy of any such commission or power of attorney as aforesaid.

Former provisions about  
registration  
applicable.

2. The provisions for registration contained in the second section of the said Act, shall be held to have applied, and to apply, to any deed, conveyance, memorial or other instrument, executed or to be executed, under such commission or power of attorney, whether the same shall have been or shall be executed by one or more commissioner or commissioners.

Forms of former conveyances  
permissive.

3. The use of the forms of conveyances in the schedule A to the said Act annexed, is declared to have been merely permissive and not obligatory; and all conveyances, assurances and releases heretofore made, or which shall be made, according to any form which would be effectual for the purpose between persons *sui juris*, shall be deemed to have been and to be effectual to vest the subjects thereof, according to the intent thereof.

4. It shall be lawful for the said company, instead of requiring from any borrower the payment of the expenses incidental to any loan at the time the loan is advanced, to give such time for payment of the same as they may be advised, and to add the same to the principal or interest secured by any mortgage or other security securing the loan.

Time for payment of expenses, etc.

## CAP. LXVI.

### An Act to Incorporate the Kingston and Frontenac Railway Company.

[Assented to 23rd January, 1869.]

WHEREAS it is expedient to incorporate a company for the construction of a railway, with iron or wooden rails, from the city of Kingston to the vicinity of Knowlton Lake, in the township of Loughborough, with power to extend the said railway into the township of Olden or the township of Oso, and for other purposes: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. Richard John Cartwright, Esquire, the Honorable Alexander Campbell, John Carruthers, Merchant, John Paton, Esquire, and Orlando S. Strange, Doctor of Medicine, all of the city of Kingston, together with such other persons or corporations as shall, under the provisions of this Act, become shareholders in the company hereby incorporated, shall be and are hereby ordained, constituted and declared to be a body corporate and politic, by and under the name of "The Kingston and Frontenac Railway Company."

Incorporation.

2. The several clauses of the Railway Act of the Consolidated Statutes of Canada, and the amendments thereto, with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for Indemnity and Fines and Penalties and their Prosecution," "By-laws, Notices, &c.," "Working of the Railway" and "General Provisions," shall be incorporated with this Act, except in so far as they are inconsistent with or are varied by this Act; and the expression "this Act," when used herein shall be held and understood to include the said clauses incorporated with this Act.

Certain clauses of the Railway Act incorporated.

3. The company shall have power to lay out, construct and maintain a railway, with wood or iron rails, of not less than three

Power to construct railway, etc.

three feet six inches gauge from any point within the limits of the city of Kingston, to some point near Knowlton Lake, in the township of Loughborough, and to extend the same, as hereinafter provided, into the township of Olden or the township of Oso; and to lay out, construct and maintain branch railways, tramways and waggon roads, not exceeding seven miles in length, to any mine, peat-bog, quarry, mill, lake or river.

Power to acquire certain lands in Kingston, etc.

4. The company shall have power to acquire unoccupied lands and unoccupied water lot property within the city of Kingston, not to exceed in all ten acres, and to acquire in the township of Loughborough twenty acres, and in the township of Olden, or the township of Oso, twenty acres, for the erection and maintenance thereon of necessary wharves, piers, warehouses, stations, curves and sidings; and to enable the Company to acquire the same, all the provisions of the Railway Act shall be as fully applicable as if the acquisition of such areas of and were authorized by the said Act.

Powers relative to branches, etc.

5. Notwithstanding anything in the Railway Act contained, the said Act shall as fully apply to the laying out, construction and maintenance of any branch of the railway as if such branch formed part of the main line; and for the laying out, construction and maintenance of necessary waggon roads, the company shall have power to enter upon and construct and maintain the same through the lands, not being a message or its curtailage, of any person or corporation, subject to the application of the provisions contained in sections sixteen to thirty-one inclusive, of chapter forty-nine of the Consolidated Statutes of Upper Canada: Provided that if the municipality within whose jurisdiction such road may be shall desire to assume the same, such road shall be delivered up to the municipality on payment of the cost thereof; and thereupon the company shall cease to be responsible for the maintenance or repair of such road; and if such road shall become unnecessary for the use of the company, and the municipality shall decline to assume the same as aforesaid, the company shall have power to dispose of the land occupied by the road by public auction.

Proviso.

Power to acquire vessels, etc.

6. The company shall have power to construct, purchase charter and navigate scows, boats, sail and steam vessels on any lake, river or stream near to, or touched by the railway for the purposes of traffic therewith.

Requisite notices to be published in county newspaper and *Gazette*.

7. The publication of any notice required by the Railway Act, or this Act, shall, unless otherwise provided by this Act, be sufficiently made by one publication of the same in a newspaper within the county, and in the *Ontario Gazette*; and the said *Ontario Gazette* shall, on production thereof, be conclusive evidence of the sufficiency of such notice.

Capital stock.

8. The capital stock of the said company shall be one hundred



hundred thousand dollars, with power to increase the same in the manner provided by this Act, to be divided into one thousand shares of one hundred dollars each, which amount shall be raised by the persons hereinbefore named, and such other persons and corporations as may become shareholders in the company; and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of this Act, and for making the surveys, plans and estimates connected with the railway; and all the rest and remainder of such money shall be applied towards making, completing and maintaining the said Railway, and other purposes of this Act: Provided always, that until the said preliminary expenses shall be paid out of the capital stock, it shall be lawful for the municipality of any county, town, village or township, to pay out of the funds of such municipality, either by way of bonus or donation, or by way of loan to the said company, such preliminary expenses, or any part thereof, as the council of such municipality may by resolution direct; and in the case of a loan, any sum thus advanced shall be refunded to the municipality from the stock of the said company, or shall be allowed in payment of any stock which may be subscribed for by such municipality.

Application of same.

Proviso.

9. The persons named in the first clause hereof are constituted the Board of Provisional Directors of the company; and shall hold office as such, until the first election of directors under this Act; and shall have power to open stock books, and procure subscriptions of stock for the undertaking, giving at least four weeks previous notice in a newspaper published in the county of Frontenac, and in the *Ontario Gazette*, of the time and place of their meeting for receiving subscriptions; and the said directors may, in their discretion, exclude any person from subscribing who, in their judgment, would hinder or delay the company from proceeding with the railway; and may allot and apportion the stock amongst the subscribers, as to the said directors shall seem meet; and the said directors may, in their discretion, cause surveys and plans to be made and executed, and may acquire any plans and surveys now existing, and shall, as hereinafter provided, call a general meeting of the shareholders for the election of directors.

Provisional directors and their powers.

10. No subscription for stock in the capital of the company shall be valid, unless ten per centum shall have been actually paid thereon, within five days after subscription into any one of the chartered banks of this Province, to be designated by the said directors.

Amount to be paid on subscribing.

11. When and so soon as shares to the amount of fifty thousand dollars in the capital stock of the said company shall be taken, and ten dollars per centum shall have been paid thereon into some one of the chartered banks of this Province, and which said amount shall not be withdrawn from such bank, or otherwise

When meeting for the election of directors to be called.

wise applied, except for the purpose of this railway, or upon the dissolution of the company, it shall be lawful for the said provisional directors of the said company, for the time being, or a majority of them, to call a meeting of the subscribers for stock therein, for the purpose of electing directors of the company, giving at least one month's notice in a newspaper published in the county of Frontenac, and in the *Ontario Gazette*, of the time, place and object of such meeting; and, at such general meeting, the shareholders present, either in person or by proxy, and who shall have paid ten per centum upon the stock subscribed by them, shall elect five persons to be directors of the said company in the manner and qualified as hereinafter provided, which said directors shall constitute a Board of directors, and shall hold office until the fourth Wednesday in January in the year following their election.

Board of directors how elected.

Annual general meeting for election of directors.

**12.** On the said fourth Wednesday in January, and on the fourth Wednesday in January in each year thereafter, there shall be holden a general meeting of the shareholders of the said company, at which meeting the shareholders shall elect five directors for the ensuing year, in the manner and qualified as hereinafter provided; and public notice of such annual general meeting and elections, and of the time and place at which such meeting shall be held, shall be published, for at least one month before the day of election, in a newspaper published in the county of Frontenac, and in the *Ontario Gazette*; and all the elections for directors shall be by ballot; and the persons so selected shall form the Board of directors.

Qualification of directors.

**13.** No person shall be elected a director, unless he shall be the holder and owner of at least ten shares of the stock of the company upon which all the calls have been paid up.

Who may be shareholders.

**14.** Aliens as well as British subjects, and whether resident in this Province or elsewhere, may be shareholders in the said company; and all such shareholders shall be entitled to vote on their shares equally with British subjects, and shall also be eligible to office as directors in the company.

Votes of shareholders.

**15.** In the elections of directors under this Act, and in the transaction of all business at general shareholders' meetings, each shareholder shall be entitled to vote, either in person or by proxy, and shall be entitled to as many votes as he holds shares; but no shareholder shall be entitled to vote in person, or by proxy, at any such meeting, or at any special meeting of the shareholders of the company, in respect of any share on which at least ten per centum shall not have been paid, and also all calls due at the time of such election or meeting.

Quorum of directors.

**16.** At all meetings of the Board of directors, whether of provisional directors, or of those elected by the shareholders, three directors shall form a quorum for the transaction of business,

business; and the said Board of directors may employ one or more of their number as paid director or directors.

17. The said directors are hereby authorized and empowered to take all necessary steps for procuring subscriptions for shares in the stock books of the company, from parties desirous of becoming shareholders in the said company, until the whole of the capital stock authorized by this Act shall have been taken up, and to make, execute and deliver all such scrip and share certificates as to the said directors shall seem expedient.

Subscriptions  
for shares.

18. The directors may, at any time, call upon the shareholders for instalments upon each share, which they or any of them may hold in the capital stock of the company, in such proportion as they may see fit: Provided that no such call or instalment shall exceed the sum of ten dollars per centum upon the amount subscribed for by the respective shareholders in the said company, and that the amount of any such call in any one month shall not exceed ten dollars per centum upon the stock so subscribed, so that there be one month between each call, until the whole capital be subscribed: Provided also, that upon the occasion of any person or corporation becoming a subscriber for stock in the said company, it shall be lawful for the directors of the said company, for the time being, to demand and receive, to and for the use of the said company, the sum of ten dollars per centum upon the amount by such person or corporation respectively subscribed, and also the amount of such calls as shall have already been made payable in respect of the stock then already subscribed, at the time of such person or corporation respectively subscribing for stock; and all persons subscribing to the capital stock of the said company shall be considered proprietors and partners in the same, but shall be liable only to the extent of their unpaid stock therein.

Calls upon  
shareholders.

Proviso as to  
limitation of  
calls.

Proviso.

19. The shares of the capital stock of the said company shall be transferable, and may, from time to time, be transferred by the respective holders and owners thereof: Provided always, that the original subscribers, or any future transferor, and the transferee shall be always held personally liable to the said company, and to the creditors thereof, for all or any part of the sums unpaid on such shares by the transferor or original subscriber subscribed, and for all calls thereon, whether due before or after any such transfer; and in any action brought for the recovery of any call or calls upon such stock, the said company may sue the original subscriber, or the person or persons to whom the same may have been transferred, as the said directors may elect, and, failing to secure payment, may enter an action against, and may recover from, the original subscriber any unpaid calls on such stock, together with the costs of any previous actions in which the company may have recovered judgments against any other of the parties liable for such calls.

Shares trans-  
ferable.

Proviso as to  
liability of  
subscribers.



Municipal-  
ties may aid  
by bonus, etc.

Proviso.

Petition there-  
fore by major-  
ity of freehold-  
ers.

Proviso.

Amount to be  
raised by de-  
bentures.

Assessment  
for repayment  
and sinking  
fund.

Increase of  
capital and ex-  
tension.

**20.** Municipal corporations may grant to the said railway company any such sums of money or debentures as may, by the said municipal corporations, be thought advisable in the way of bonus or donation, to aid in the construction or equipment of the said railway, or of any of the works authorized under this Act; and it shall be lawful for the company to accept such bonus or donation, and to apply any such sums of money or the proceeds of such debentures to the special purpose, if any, for which the same was so granted: Provided always, that the by-law authorizing the grant of such bonus or donation shall be approved of in the manner provided by section two hundred and twenty-six, two hundred and twenty-seven and two hundred and twenty-eight of *An Act respecting the Municipal Institutions of Upper Canada*, passed in the session held in the twenty-ninth and thirtieth years of the reign of Her Majesty Queen Victoria.

**21.** In case a majority of the persons rated on the last assessment roll as freeholders in any portion of a municipality, do petition the council of such municipality, the said petition to define the metes and bounds of the section of the municipality within which the property of the petitioners is situated, and expressing the desire of the said petitioners to aid in the construction of the said railway by granting a bonus or donation to the said company for this purpose, and stating the amount which they so desire to give and grant and to be assessed therefor, the council of such municipality shall pass a by-law: Provided the said by-law shall be approved of as in sections two hundred and twenty-six, two hundred and twenty-seven and two hundred and twenty-eight of the *Municipal Act of eighteen hundred and sixty-six*, chapter fifty-one, by the majority of qualified electors in the portion of a municipality petitioning as aforesaid:—

(1.) For raising the amount so petitioned for by the freeholders in such portion of the municipality, by the issue of debentures of the municipality, payable within twenty years or earlier, and for the payment to the said company of the amount of the said bonus or donation at the time and on the terms specified in the said petition.

(2.) For assessing and levying upon all the rateable property lying within the section defined by the said petition, an annual special rate sufficient to include a sinking fund for the repayment of debentures, with the interest thereon, which municipal councils are hereby authorized to execute and issue in such cases respectively.

**22.** When and so soon as seventy-five per centum of the capital stock shall have been fully paid, and at least twenty miles of the railway shall have been constructed, if it shall at any general meeting of the company, called for the purpose, be resolved by a vote representing two-thirds of the capital stock paid up, to extend the said railway into one or other of the townships of Olden or

Oso,

Oso, and for such purpose to increase the capital stock of the said company to any sum not exceeding three hundred thousand dollars, either by the addition of new subscriptions or otherwise, it shall and may be lawful for the said company to enter upon such extension and increase such capital; and the new shares thereof shall be part of the capital of the corporation; and the subscribers to such shares shall be members of the said corporation: Provided always, that such increase of capital and the extension of the said railway, shall not take effect until the by-law authorizing the same shall have received the approval of the Lieutenant Governor in Council Proviso.

23. Upon the approval of the said by-law by the Lieutenant Governor in Council, the order in council confirming the same shall be published in the *Ontario Gazette*; and upon such publication and the deposit with the Minister of Public Works and in the office of the Clerk of the Peace for the county, of the map or plan of such extension and the book of reference relating thereto, such extension shall be deemed to be fully authorized, and to be part of the undertaking authorized by this Act; and to the same and to every part thereof, every provision of this Act shall be fully applicable: Provided that until such extension be authorized and approved as aforesaid, the map or plan and book of reference shall comprise only that portion of the Railway between the city of Kingston and the primary terminus near Knowlton lake in the township of Loughborough. Proceedings after approval by Lieutenant Governor of by-law authorizing extension. Proviso.

24. The company shall have power to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory notes, or any such bill of exchange drawn or accepted, or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, shall be binding on the company; and the President, Vice-President or the Secretary or Treasurer, shall not be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors as aforesaid: Provided that nothing in this section shall be construed to authorize the company to issue notes or bills of exchange payable to bearer, intended to be circulated as money, or as the notes or bills of a bank. Company may become parties to notes, etc. Proviso.

25. It shall be lawful for the directors, for the time being, to make, execute and deliver all such bonds, debentures, mortgages or other securities as to the directors, for the time being, shall, from time to time, seem expedient, for raising the necessary capital, for the time being, authorized to be raised by the said company, or for raising any part thereof: Provided always, that the portion of the capital to be raised by bonds, debentures or mortgages, shall not exceed at any time the amount of the then actual paid up capital stock of the said company, and expended on the said road. Directors to make bonds, etc. Proviso.

How bonds,  
etc., executed.

**26.** All bonds, debentures and other securities shall be executed by the President of the company, for the time being, and countersigned by the Secretary, and may be made payable to bearer; and all such bonds, debentures and other securities of the said company, and all dividends and interest warrants or coupons thereon respectively, which shall purport to be payable to bearer, shall be assignable at law by delivery, and may be sued on and enforced by the respective bearers and owners thereof, for the time being, in their own names: Provided always, that no such debentures shall be issued for an amount less than one hundred dollars Provincial currency.

Proviso.

Form of conveyances to company.

**27.** Conveyances of lands to the company may be made in the form set out in schedule A hereunder written, and shall be registered in the manner and upon the proof required under the "Registration of Titles (Ontario) Act;" and no Registrar shall be entitled to more than fifty cents for such registration, together with all entries and certificates in respect of every such conveyance and the duplicate thereof.

When railway to be completed.

**28.** The said railway shall be completed from the city of Kingston to the primary terminus in the township of Loughborough, within two years from the passing of this Act, and the extension thereof into the township of Olden, or the township of Oso, within five years from the passing of this Act; and, in the event of the non-completion of the said railway within the time limited, the charter, powers and privileges of the company shall be forfeited.

#### SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS that I (*insert the name of the wife, also if she is to release her dower, or for any other purpose to join in the conveyance*) in consideration of

*paid to me*  
(*or, as the case may be*) by the Kingston and Frontenac Railway company, the receipt whereof is hereby acknowledged, do hereby grant, sell and confirm unto The Kingston and Frontenac Railway Company, their successors and assigns, all the certain parcel of land being and composed of (*describe the land*) to have and to hold the said land and premises, together with everything appertaining thereto, to the said the Kingston and Frontenac Railway Company, their successors and assigns, for ever (*if dower released, add and I (name the wife)*) release my dower in the premises.)

Witness hand and seal this  
day of one thousand eight hundred and

Signed sealed, and  
delivered in pres-  
ence of

E. F. }

A. B.

C. D.

[L.S.]

[L.S.]

CAP.



## CAP. LXVII.

An Act to Vest certain Real Estate in the Trustees of the Adelaide Street Wesleyan Methodist Church, Toronto, with power to Sell and Convey the same, and to Apply the Proceeds in the erection of a new Church.

*[Assented to 23rd January, 1869.]*

**W**HEREAS the Reverend William Stephenson, of the city Preamble.  
of Toronto, Chairman, the Reverend Anson Green, D.D., of the city of Toronto, Treasurer, and Samuel Rogers, of the city of Toronto, Secretary, trustees respectively of the Congregation of the Adelaide Street Wesleyan Methodist Church, of the city of Toronto, have, on behalf of themselves and others, the Trustees of the Wesleyan Methodist Church, Toronto, by their petition, set forth that the said Trustees hold certain real estate, to wit: all that parcel of land and premises situate on the south-east corner of Adelaide and Toronto Streets in the said city of Toronto, and being seventy-eight feet on Adelaide Street by ninety-seven feet on Toronto Street, and is known as the Adelaide Street Wesleyan Methodist Church property, and the premises and appurtenances thereunto belonging, and which is more particularly described in a certain deed of conveyance made by one James Rogers Armstrong of the one part, and the Reverend John Ryerson, James Foster, of the city of Toronto, shoemaker, James Rogers Armstrong, of Toronto, merchant, John Beatty, of Toronto, merchant, James Good, of Toronto, ironfounder, James Hodgson, of Toronto, schoolmaster, Joshua Crawford, of Toronto, baker, Robert James, of Toronto, carpenter, George Walker, of Toronto, tailor, and bearing date the ninth day of July, in the year of our Lord one thousand eight hundred and forty, and which was registered in the Registry office for the county of York, the twenty-first day of July, in the year of our Lord one thousand eight hundred and forty, as trustees for the Wesleyan Methodist Church in Canada; and whereas there have been irregularities in the mode of appointment of some of the said trustees, to wit: Robert Petch, Reverend Anson Green, D.D., Samuel Rogers and Gilbert Percy, who, together with their co-trustees, are the successors in office of the said grantees in the said conveyance mentioned; and whereas the said trustees are desirous of selling the said church property, it being too small and inconveniently situated for the accommodation of the congregation, and to apply the proceeds arising from such sale towards the erection of a new church; and whereas it is expedient to remedy any irregularities that may have existed in the appointment of the said trustees, or any of them, and to vest the said real estate in the said trustees in fee simple for the purposes aforesaid; and whereas the said trustees have petitioned praying for an Act for vesting the said property in

in them as trustees, with power to the said trustees or a majority of them, to sell and convey the said real estate as aforesaid; and whereas it is expedient to grant the prayer of the said petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Certain lands  
vested in  
James Rogers  
Armstrong  
and others.

1. All that certain parcel of land and premises situate on the south-east corner of Adelaide and Toronto Streets, and mentioned and described in the said deed of conveyance above referred to, and being composed of part of the north-west part of the square or block of land containing by admeasurement seven thousand five hundred and sixty-six square feet (the whole of the said block being denominated by the letter "B," north side of King Street, on the plan of the said city, lying between Newgate, now Adelaide Street and King Street), and butted and bounded as follows, that is to say: commencing at the north-west angle of the said block or square, and on the eastern limit of Toronto Street, then north seventy-four degrees east seventy-eight feet, then south sixteen degrees east ninety-seven feet, then south seventy-four degrees west seventy-eight feet to the eastern limit of Toronto Street, then north sixteen degrees west ninety-seven feet to the place of beginning, with all the rights and appurtenances, are hereby vested in James Rogers Armstrong, of Whitby, the Reverend John Ryerson, of Brantford, Robert Petch, of Toronto, the Reverend Egerton Ryerson, D. D., of Toronto, the Reverend Anson Green, D.D., of Toronto, Samuel Rogers, of Toronto, Gilbert Percy, of Toronto, Robert James, of Toronto, and John Beatty, of Cobourg, M.D., under the name of the Trustees of the Adelaide Street Wesleyan Methodist Church, Toronto, and their successors, to be chosen and appointed in pursuance, and according to the terms and directions, of a certain indenture bearing date the twenty-fourth day of May, in the year of our Lord one thousand eight hundred and fifty, and made between Joseph Bloor, of the village of Yorkville, in the county of York, and his wife, and the trustees of the Wesleyan Methodist Church, of the village of Yorkville, and registered in the Registry office for the county of York, and which deed is known as the model deed of the Wesleyan Methodist Church in Canada, in fee simple to hold upon similar trusts, and for similar uses and purposes, as those set forth in the said model deed, subject, however, to the conditions and provisos contained in the original grant thereof from the Crown, and also to any incumbrance existing upon the same.

Who authorized to sell.

2. The said trustees and their successors, or a majority of them, are hereby authorized and empowered to sell the premises above mentioned and described, anything in the said deed to the contrary notwithstanding, and to convey the said property whenever it is deemed by the said trustees or a majority of them advisable to do so, and to apply the proceeds in the erection of a new church;

church; and the purchaser or purchasers of the said property from the said trustees, or their successors, or a majority of them, shall not be in any way bound to see to the application, or be answerable for the non-application or misapplication, of the purchase money or any part thereof, but the receipt of the said trustees or their successors, or such of them as join in the said conveyance, shall be a sufficient discharge of the same.

## CAP. LXVIII.

### An Act to Incorporate the Ontario Trust and Investment Company.

*[Assented to 23rd January, 1869.]*

**WHEREAS** the persons hereinafter named, and others, propose to establish a Joint Stock Company, and have petitioned for an Act of Incorporation for the said company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Honourable John Ross, of the city of Toronto, Senator of the Dominion of Canada, A. M. Smith Esquire, of Toronto, Rev. Enoch Wood D.D., of Toronto, James Holden Esquire, of the Town of Whitby, Joseph Cawthra Esquire, of the village of Newmarket, in the county of York, James Crowther, of the city of Toronto, Barrister at Law; William Beatty Esquire, M.P.P., of the village of Thorold, in the county of Welland and Abraham W. Lawder, of the city of Toronto, Esquire, M.P.P., (who shall be provisional directors), and all other person and persons, body and bodies politic, as shall, from time to time, be possessed of any share or shares in the undertaking, shall be united into a company, and shall be one body politic and corporate by the name of "The Ontario Trust and Investment Company," and, by that name, shall have perpetual succession and a common seal, with power to break and alter such seal; and, by that name, shall sue and be sued, plead and be impleaded in all Courts' whatsoever.

Preamble.

Certain persons incorporated.

Corporate name.

2. The capital stock of the company shall be one hundred thousand dollars, divided into two thousand shares of fifty dollars each: Provided that stock to the amount of twenty thousand dollars shall be subscribed, and ten thousand dollars thereof paid up before the company shall go into operation, and, for every year thereafter, at least a further sum of ten per centum upon the allotted stock of the company shall be called in and made payable, until the whole shall have been so called in; and, so soon as the sum of seventy-five thousand dollars is paid up, the company shall have power to increase its capital stock to two hundred

Capital stock.

Proviso.



hundred thousand dollars by a declaration to that effect, executed under the seal, and signed by the President of the company, (empowered as hereinafter provided,) and deposited in the office of the Registrar of the Province of Ontario; and such increased capital stock of one hundred thousand dollars shall also be divided into two thousand shares of fifty dollars each, and be paid up in at least ten equal annual instalments.

Company may  
acquire certain  
securities.

3. The company may acquire, hold, and dispose of the stocks, bonds, debentures and municipal securities, and the obligations of corporate companies, and may buy and sell debts secured by mortgage or pledge of freehold or leasehold lands.

Borrowing  
powers of the  
company.

4. The directors may, from time to time, with the consent of the shareholders present, or represented in a general meeting, borrow money on the debentures of the company, at such rates of interest and upon such terms as they may think proper; and the directors may, for that purpose, make or cause to be made, debentures under the common seal of the company, for sums not less than one hundred dollars, which may be payable at any place, and either to order or bearer, and may have interest coupons attached: Provided that no lenders shall be required or bound to enquire into the occasion of any such loan, or into the validity of any resolution authorizing the same, or the purpose for which such loan is wanted; and the said company may receive money on deposit: Provided that the aggregate amount of such deposits, together with the amount of debentures issued and remaining unpaid, shall not at any time exceed the amount of cash and securities, at their cash value, belonging to the company, and shall at no time exceed the paid up capital of the company.

Proviso.

Proviso.

May act as a  
trust associa-  
tion and deal  
in certain se-  
curities.

5. The company is empowered to act as an agency, and may hold, invest and deal with such moneys, mortgages, securities or debts as shall, from time to time, be transferred or delivered to the company, upon trust or as agents, and may exercise all the rights which parties so transferring or delivering the same might or could exercise; and the company may give such guarantee as may be agreed on for repayment of principal and interest, or both, of any such moneys, mortgages, or debts.

May hold  
estate.

6. The company may hold such real estate, including lands actually required by them for an office in the city of Toronto, as may be acquired by them for the protection of their investments, and may, from time to time, sell, mortgage, lease or otherwise dispose of the same: Provided always, that the company shall sell any such real estate, the premises occupied by the company as aforesaid excepted, within five years after so acquiring it; and that the same shall not at any time exceed in annual value the sum of ten thousand dollars.

Proviso.

7. The head office of the company shall be in Toronto ; but Head office.  
the directors may have offices in London, England, and in the  
city of New York, and may appoint trustees to manage them,  
and for such other purposes as the directors shall determine,  
and the debentures, coupons, or dividends of the company may  
be payable at any place in London.

8. The transmission of the interest in any share of the capi- How trans-  
mission of  
interest to be  
authenticated.  
tal stock, in consequence of marriage, death or insolvency of a  
shareholder, or by any other means than an ordinary transfer,  
shall be authenticated, and made in such form, by such proof,  
and generally, in such manner, as the directors shall, from time  
to time, require, or by by-law direct.

9. Interest shall accrue, and fall due at the rate of six per Interest on  
calls overdue.  
centum per annum upon the amount of any unpaid call from the  
day appointed for payment of such call.

10. The company may enforce payment of all calls and in- Action for  
calls.  
terest thereon by action in any competent Court ; and, in such  
action, it shall not be necessary to set forth the special matter,  
but it shall be sufficient to declare that the defendant is the  
holder of one share or more, stating the number of shares, and  
is indebted in the sum of money to which the calls in arrear  
amount in respect of one call or more, upon one share or more,  
stating the number of calls, and the amount of each, whereby  
an action hath accrued to the company under this Act, and a  
certificate under their seal, and purporting to be signed by the  
President, Secretary or General Manager of the company, to  
the effect that the defendant is a shareholder, that such call or  
calls have been made, and that so much is due by him and un- What only  
need be alleged  
and proved.  
paid thereon, shall be received in all Courts of law and equity  
as *prima facie* evidence to that effect.

11. If, after such demand or notice, as the by-laws of the Forfeiture for  
non-payment.  
company may prescribe, any call made upon any share or shares  
be not paid within such time as by such by-laws may be lim-  
ited in that behalf, the directors, in their discretion, by vote to  
that effect, reciting the facts, and the same being duly recorded  
in their minutes, may summarily forfeit any shares whereon  
such payment is not made, and the same shall thereupon become  
the property of the company, and may be disposed of as by by-  
law or otherwise they shall ordain.

12. The shareholders of the company shall have full power Shareholders  
may make by-  
laws.  
in all things to administer the affairs of the company, and to  
make by-laws regulating the issue and registration of certifi-  
cates of stock, the increase of capital stock, the transfer of  
stock, the calling in of amounts due on subscribed stock, the  
declaration and payment of dividends, the number of directors,  
their term of service, the amount of their stock qualification,  
the appointment, functions, duties and removal of all agents,  
officers

officers and servants of the company, the security to be given by them to the company, their remuneration, and that, if any, of the directors, the place or places where the annual meeting of the company shall be held, and where the business of the company shall be conducted, the calling of meetings, regular and special, of the Board of directors of the company, the quorum, the requirements as to proxies, and the procedure in all things at such meetings, the imposition and recovery of all penalties and forfeitures admitting of regulation by by-law, and the conduct of all other particulars of the affairs of the company, and may, from time to time, repeal, amend, or re-enact the same.

Voting.

Proviso.

**13.** Every shareholder in the company shall be entitled to one vote for each share he may hold in the capital stock of the company, at least one month prior to the time of voting: Provided that no shareholder being in arrears in respect of any call shall be entitled to vote at any meeting of the company, and the votes of the shareholders may be given in person or by proxy.

Certified copy of by-law evidence.

**14.** A copy of any by-law of the company under their seal, and purporting to be signed by any of the officers aforesaid, shall be received as *prima facie* evidence of such by-law in all courts of law and equity in this Province.

First meeting of shareholders.

**15.** So soon as twenty thousand dollars of the capital stock shall have been subscribed, and ten thousand dollars thereof paid up, the directors shall call a general meeting of the shareholders, to be held in the city of Toronto, of which meeting not less than one month's notice shall have been given by public advertisement in the *Ontario Gazette*, for the purpose of passing by-laws for the management of the affairs of the company, the election of directors, the appointment of officers, and generally, for the exercise of the powers conferred on the shareholders by the twelfth section of this Act.

Powers of provisional directors to cease.

**16.** So soon as directors shall have been appointed under the next preceding section, the powers and functions of the provisional directors shall cease and determine.

Failure of election of directors not to dissolve company.

**17.** If, at any time, an election of directors be not made or do not take effect at the proper time, the company shall not be held to be thereby dissolved, but such election may take place at any general meeting of the company duly called for that purpose.

Annual meeting.

**18.** The general annual meeting of the company shall be held on the last Wednesday of the month of January in each year, and, at such meeting, a full and detailed statement of the financial affairs of the company up to the thirty-first day of December, of the year then last past, shall be submitted to the stockholders, and shall appear in the books of the company, and



and be open for the inspection of the shareholders; but such annual general meeting may be adjourned to a future day, with the consent of a majority of the stockholders present or represented at the meeting.

**19.** The company shall cause a book or books to be kept by the Treasurer, or by some other officer specially charged with that duty, wherein shall be kept recorded—

(1.) A correct copy of the Act incorporating the company, as also of any and every by-law thereof.

(2.) The names, alphabetically arranged, of all persons who are or have been shareholders.

(3.) The address and calling of every such person while such shareholder.

(4.) The number of shares of stock held by each shareholder.

(5.) All transfers of stock in their order, as presented to the company for entry, with the date and other particulars of each transfer, and the date of the entry thereof.

(6.) The names, address, and calling of all persons who are, or who have been, directors of the company, with the several dates at which each became, or ceased to be such director.

**20.** No transfer of stock shall be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and as rendering the transferees liable *ad interim* jointly and severally with the transferor to the company and their creditors, until entry thereof has been duly made in such book or books.

**21.** The stock and transfer books shall, during reasonable business hours of every day, except Sunday and statutory holidays, be kept open for the inspection of shareholders and creditors of the company, and their personal representatives, at the office or chief place of business of the company; and every shareholder, creditor or representative may make extracts therefrom.

**22.** Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any suit or proceeding against the company, or against any shareholder.

**23.** Every director, officer or servant of the company, who knowingly makes, or assists to make, any untrue entry in any such book, or who refuses or neglects to make any proper entry therein, or to exhibit the same, or to allow the same to be inspected and extracts taken therefrom, shall be liable to a penalty

penalty not exceeding twenty dollars for making each such untrue entry, and for each refusal or neglect, and also for all loss or damage which any party interested may have sustained thereby.

Company not bound to see to trusts.

**24.** The company shall not be bound to see to the execution of any trusts whether express, implied or constructive in respect of any shares; and the receipt of the shareholder in whose name the same may stand in the books of the company, shall be a valid and binding discharge to the company for any dividend or money payable in respect to such shares, and whether or not such notice of such trust shall have been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt.

Contracts by the company, how to be executed.

**25.** Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and any cheque made, drawn or endorsed on behalf of the company, by any agent, officer or servant of the company, in general accordance with his powers as such, under the by-laws of the company, not inconsistent with this Act, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange or cheque, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in pursuance of any by-law or special vote or order; nor shall the party so acting as agent, officer or servant of the company be thereby subjected to any individual liability whatever to any third party therefor.

Liability of shareholders.

**26.** Each shareholder, until the whole of his stock has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid thereon; but shall not be liable to an action therefor by any creditor, before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution shall be the amount recoverable, with costs, against such shareholder.

Limit of shareholders' liability.

**27.** The shareholders of the company shall not as such be held responsible for any act, default, or liability whatsoever of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever, relating to or connected with the company beyond the amount of their respective shares in the capital stock thereof.

Actions and witnesses.

**28.** Any description of action may be prosecuted and maintained between the company and any shareholder thereof; and no shareholder, not being himself a party to such suit, shall be incompetent as a witness therein; and the officers of the company shall be competent witnesses in all actions brought by or against the company.

29. The company shall make and furnish to the Lieutenant Governor, and to the Legislative Assembly of Ontario, during the first fifteen days of the session, in each and every year, a full and unreserved statement, verified on oath, of the affairs of the said company, and of its funds, property and securities. Annual statement.

## CAP. LXIX.

An Act to Legalize the granting to and the holding by the Municipal Corporation of the Township of St. Vincent, in the County of Grey, in the Province of Ontario, of certain Lands.

[Assented to 23rd January, 1869.]

WHEREAS the municipal corporation of the township of Saint Vincent, in the county of Grey, have, by their petition, represented that they have made considerable improvements in the town of Meaford, and that these improvements have been made in that part of the said town set apart, and laid down on the plan of the survey by R. F. Lynn, Esquire, of Meaford aforesaid, Provincial Land Surveyor, as a public street or thoroughfare, and that for the convenience and benefit of the inhabitants of the said town and neighborhood generally, in order to enable the said municipal corporation to improve the harbour at the mouth of the Big Head River in the said town of Meaford, and for other purposes beneficial to the inhabitants of the said town and neighborhood, it is deemed expedient to grant to and vest in the said municipal corporation, the lands hereinafter mentioned: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In addition to the lands already granted by the Crown to the municipal corporation of the township of Saint Vincent in the county of Grey, and held by the said corporation, it shall and may be lawful for a grant to be made to the said municipal corporation of Saint Vincent, and their successors, of the lands described in the schedule A to this Act; and that it shall and may be lawful for the said municipal corporation, and their successors, to have and hold the said lands for the purpose of making a harbour at the mouth of the Big Head River aforesaid; and as to so much of the said lands as shall not be requisite or necessary, for the purposes of a harbour, that the said municipal corporation, and their successors, may lease and make use of the same for such purposes, and upon such terms, as they may deem necessary, for the interests of the inhabitants of the said town and neighborhood.

Certain lands  
vested in the  
corporation of  
St. Vincent.

SCHEDULE



## SCHEDULE A.

That portion of the town of Meaford, comprising Bayfield Street, lying on the west side of Big Head River, commencing at Bridge Street, and terminating at the East end of Parker Street, that is to say, reserved Lot "A," West of the said river, on Bayfield Street aforesaid, as laid down on the plan of the survey of Provincial Land Surveyor, R. F. Lynn, Esquire, leaving the said Bayfield Street one chain and a half wide from Bridge Street, where it intersects Nelson Street to Collingwood Street, which is deemed sufficiently wide for the public use, to be continued, maintained and kept as a public street and highway; also, the reserved Lot "B," east of the said river, on Collins Street, commencing at said Bridge Street, and terminating at the water's edge, leaving the said Street one chain wide for the public use, as aforesaid, to be maintained, continued and kept as a public street and highway, traversing the shore of said river, and that of Lake Huron, respectively, at low water mark; also the reserve lot "C," containing by admeasurement seven and a half tenths of an acre, be the same more or less, butted and bounded as follows, that is to say: commencing at H, the eastern limits of the road allowance between the fourth and fifth concessions and on the northern limits of Huron Street; thence easterly along the northern edge of Huron Street eight chains and sixty links to the western edge of George Street; thence northerly along the western edge of George Street sixty-five links to the low water mark of Lake Huron; thence westerly along the margin of the low water mark of Lake Huron about eight chains and ninety links to the eastern edge of the road allowance between the fourth and fifth concessions; thence southerly along the eastern edge of said road allowance one hundred and ten links, may the said distance be more or less to the place of beginning.

## CAP. LXX.

An Act to Incorporate the Presque-Isle and Belmont  
Railway Company.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS Peter Pearce, P. Preston, Gilbert Weller and David Massie, of the township of Belmont; James Dinwoodie, Robert Cockburn, Daniel Kennedy and James M. Ferris, of the township of Seymour; Isaac O. Proctor, Robert J. Morrow, Daniel R. Bedell and Austin A. Becker, of the township of Brighton; John Eyre, M.P.P., John E. Proctor, A. E. Fife, Isaac M. Wellington, Willett M. Platt, W. W. Webb, M. Ferris, Milton K. Lockwood, Jared O. Clark and Adam C. Webb,

Webb, of the village of Brighton, and others, have petitioned the Legislature of this Province for an Act of Incorporation to construct a railway from Presque-Isle Harbour, thence through or near as practicable to the village of Brighton, the villages of Northam, Workworth, Meyersburgh and Campbellford, in the county of Northumberland, the township of Belmont and the township of Marmora, to some point within the township of Lake, in the county of Hastings, which would develop the resources of that part of the country, and open up for settlement a large tract of country, at present unimproved and lying waste; and it is expedient to grant a charter for the construction of such Railway: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said Peter Pearce, P. Preston, Gilbert Weller, David Massie, James Dinwoodie, Robert Cockburn, Daniel Kennedy, James M. Ferris, Isaac O. Proctor, Robert J. Morrow, Daniel R. Bedell, Austin A. Becker, John Eyre, M.P.P., John E. Proctor, A. E. Fife, Isaac M. Wellington, Willett M. Platt, W. W. Webb, M. Ferris, Milton K. Lockwood, Jared O. Clark and Adam C. Webb, together with such persons and corporations as shall, in pursuance of this Act, become shareholders of the said company hereby incorporated, are hereby constituted and declared to be a body corporate and politic by the name of "The Presque-Isle and Belmont Railway Company." Incorporation.

2. The several clauses of the Railway Act of the Consolidated Statutes of Canada and amendments, with respect to the first, second, third, fourth, fifth and sixth clauses thereof, and also the several clauses thereof with respect to "Interpretation," "Incorporation," "Powers," "Plans and Surveys," "Lands and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for Indemnity, and Fines and Penalties, and their Prosecution," "By-Laws," "Notices, &c.," "Working of the Railway" and "General Provisions," shall be incorporated with, and be deemed to be part of this Act, and shall apply to the said company, and to the Railway to be constructed by them, except so far as they may be inconsistent with the enactments hereof; and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act as aforesaid. Certain clauses of Railway Act to apply.

3. The said company hereby incorporated, and their servants and agents, shall have full power, under this Act, to construct a railway from any point at Presque-Isle Harbor to some point within the township of Lake, as may seem to the company best adapted to attain the objects mentioned in the preamble, with full power to pass over such portions of the counties of Northumberland, Power to build a railway.

Northumberland, Peterborough and Hastings as may be determined upon, and as lie between the points aforesaid, and to carry the said railway through the Crown Lands lying between the same.

Power to purchase steam vessels.

4. The said company shall further have power to purchase, build, complete, fit out and charter, sell, or dispose of, work and control, and keep in repair, one steam vessel or more, from time to time, to ply on the inland rivers and lakes adjacent to the said railway, in connection with the said railway.

Gauge.

5. The gauge of the said railway shall not be less than three feet six inches, and the rails may be laid either of wood, iron or other material, or partly of either, at their discretion.

Form of conveyances.

6. Conveyances of lands to the said company, for the purposes of this Act, may be made in the form set out in the schedule A, hereunder written, or to the like effect; and such conveyances shall be received by the several Registrars, and be registered by duplicates thereof in such manner and upon such proof of execution as is required under the Registry laws of Ontario; and no Registrar shall be entitled to demand more than fifty cents for registering the same, including all entries and certificates thereof, and certificates endorsed on the duplicates thereof.

Provisional directors.

7. From and after the passing of this Act, the said Peter Pearce, P. Preston, Gilbert Weller, David Massie, James Dinwoodie, Robert Cockburn, Daniel Kennedy, James M. Ferris, Isaac O. Proctor, Robert J. Morrow, Daniel R. Bedell, Austin A. Becker, John Eyre, M.P.P., John E. Proctor, A. E. Fife, Isaac M. Wellington, Willett M. Platt, W. W. Webb, M. Ferris, Milton K. Lockwood, Jared O. Clark and Adam C. Webb, shall be provisional directors of the said company.

Powers of provisional directors.

8. The said persons named as provisional directors of the said company, shall hold office as such until the first election of directors under this Act, and shall have power and authority, immediately after the passing of this Act, to open stock books, and procure subscriptions of stock for the undertaking, giving at least four weeks previous notice by advertisement in newspapers in the places herein-after mentioned, and in the *Ontario Gazette*, of the time and place of their meeting, to receive subscriptions of stock; and the said provisional directors may cause surveys and plans to be made and executed, and to acquire any plans and surveys now existing; and it shall be their duty, as hereinafter provided, to call a general meeting of shareholders for the election of directors.

Capital of the company.

9. The capital of the company hereby incorporated shall be three hundred thousand dollars, with power to increase the same in the manner provided by the Railway Act, to be divided



divided into six thousand shares of fifty dollars each; and shall be raised by the persons and corporations who may become shareholders in such company; and the money so raised shall be applied, in the first place, to the payment of all expenses for making the surveys, plans and estimates connected with the works hereby authorized; and the remainder of such money shall be applied to the making, equipment, completion and working of the said railway, and the other purposes of this Act.

**10.** And it shall further be lawful for any municipality or municipalities, through any part of which or near which, the railway or works of the said company shall pass or be situated, or which may be benefited thereby, to aid and assist the said company, by loaning or guaranteeing, or giving money by way of bonus or other means to the company, or issuing municipal bonds to, or in aid of the company, and otherwise in such manner, and to such extent, as such municipalities, or any of them, shall think expedient: Provided always, that no such aid, loan, bonus or guarantee shall be given, except after the passing of by-laws for the purpose, and the adoption of such by-laws by the ratepayers, as provided in the Railway Act: Provided always, that any such by-law, to be valid, shall be made in conformity with the laws of this Province respecting municipal institutions.

Municipalities may aid by bonus, etc.  
Proviso.

**11.** Whenever any municipality shall grant a bonus to aid the said company in the making, equipment and completion of the said railway, the debentures therefor shall, within six weeks after the passing of the by-law authorizing the same, be delivered to three trustees to be named, one by the Lieutenant Governor in Council, one by the said company, and one by the Reeves of the townships of Brighton, Percy, Seymour, Belmont, Marmora, Lake, Cramahe, Murray and the village of Brighton, all such trustees to be residents in the East Riding of the county of Northumberland: Provided that if the Lieutenant Governor in Council shall refuse or neglect to name such trustee within one month after notice to him of the appointment of the other two trustees, the said company shall be at liberty to name one in the place of the one to have been named by the Lieutenant Governor in Council: Provided also, that the said Reeves shall appoint the said trustee, to be appointed by them by the vote of a majority of them who shall attend the meeting for that purpose, to be held at such time and place as the said company may appoint for that purpose, notice of which shall be sent to each of them by mail, at least fourteen days before the day appointed; and if they then fail or neglect to name such trustee, the said company shall be at liberty to name one in the place of the trustee to have been named by them; and any trustee appointed may be removed, and a new trustee appointed in his place, at any time by the consent of the Lieutenant Governor in Council, the majority of the said Reeves and the said company.

In case of a bonus the debentures to be deposited with trustees, to be appointed, etc.  
Proviso.  
Proviso.

The trust.

**12.** And such trustees shall receive the said debentures in trust: firstly, to convert the same into money; secondly, to deposit the amount realized from the sale of the said debentures in some one of the chartered banks, having an office either in the towns of Cobourg or Belleville, under the style of the Presque-Isle and Belmont Railway Municipal Trust Account; and to pay the same out to the said company, from time to time, on the certificate of the Chief Engineer of the said railway, in the form set out in schedule B hereto, or to the like effect, to be expended by them *pro rata* on each mile of railway built between the point of commencement at Presque-Isle Harbor to a point within the township of Lake; and the said certificate of the Chief Engineer shall set out the portion of the railway to which the money to be paid out is to be applied, the total amount expended on such portion to the date of such certificate, and that the sum so certified does not exceed the *pro rata* amount to be applied on the work done; and the said certificate shall be attached to the cheques of the said trustees respectively, as they shall be drawn; and the wrongfully granting of any such certificate by such Engineer shall be punishable by fine of one thousand dollars or imprisonment by any Court of competent jurisdiction in the Province of Ontario for a period not less than six months; and the act of any two such trustees shall be as valid and binding as if the three had agreed.

Punishment for breach.

General meeting when to be called.

**13.** As soon as shares to the amount of fifty thousand dollars of the capital stock of the said company shall have been subscribed, and ten per centum thereof paid into some chartered bank, the directors shall call a general meeting of the subscribers for the said capital stock, who shall have so paid up ten per centum thereof for the purpose of electing directors of the said company.

By whom to be called, in case of neglect by provisional directors.

**14.** In case the provisional directors neglect to call such meeting for the space of three months after such amount of the capital stock shall have been subscribed, and ten per centum thereof so paid up, the same may be called by any five of the subscribers who shall have so paid up ten per centum, and who are subscribers among them for not less than one thousand dollars of the said capital stock, and who have paid up all calls thereon.

Notice thereof.

**15.** In either case, notice of the time and place of holding such general meeting shall be given by publication in one newspaper in each of the counties of Northumberland and Peterborough, and the Ontario *Gazette*, once in each week for the space of one month, and such meeting shall be held in the village of Campbellford, in the township of Seymour, at such place therein, and on such day, as may be named by such notice.

Who to vote at election for directors.

**16.** At such general meeting the subscribers for the capital stock assembled, who shall have so paid up ten per centum thereof, with



with such proxies as may be present, shall choose nine persons to be directors of the said company, and may also make or pass such rules, regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act. Proviso.

17. No person shall be qualified to be elected as such director, unless he be a shareholder, holding at least twenty shares of stock in the company, and unless he has paid up all calls thereon. Qualification.

18. Thereafter the general annual meeting of the shareholders of the said company, shall be held in such place in the village of Brighton, and on such days, and at such hours, as may be directed by the by-laws of the said company, and public notice thereof shall be given at least thirty days previously in the *Ontario Gazette*, and in one or more newspapers published in the counties of Northumberland and Peterborough. General annual meetings.

19. Special general meetings of the shareholders of the said company may be held at such places in the village of Brighton, and at such times, and in such manner, and for such purposes, as may be provided by the by-laws of the said company, and after due notice thereof shall be given as aforesaid. Special general meetings.

20. The directors of the said company, after the sanction of the shareholders shall have been first obtained at any special general meeting to be called, from time to time, for such purpose, but limited to the terms of this Act, shall have power to issue bonds made and signed by the President or Vice-President of the said company, and countersigned by the Secretary and Treasurer, and under the seal of the said company, for the purpose of raising money for prosecuting the said undertaking; and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking, and the property of the company, real and personal, and then existing, and at any time thereafter acquired; and each holder of the said bonds shall be deemed to be a mortgagee and incumbrancer *pro rata* with all the other holders thereof upon the undertaking and the property of the company as aforesaid: Provided, however, that the whole amount of such issue of bonds shall not exceed in all the sum of two hundred and fifty thousand dollars; nor shall the amount of such bonds issued at any one time be in excess of the amount of the cash paid up on its share capital, together with the amount of paid up municipal and other bonuses, and which have been actually expended in surveys and in works of construction upon the line: Provided also, that in the event at any time of the interest upon the said bonds remaining unpaid and owing, then at the next ensuing general annual meeting of the said company, all holders of bonds shall have and possess the same rights, privileges and qualifications for directors, and for voting as are attached to

To be a lien,  
etc.

Proviso.

If interest in  
arrear holders  
may vote.



Proviso.

to shareholders: Provided that the bonds, and any transfers thereof, shall have been first registered in the same manner as is provided for the registration of shares.

Bonds, etc.  
payable to  
bearer and  
transferable  
by delivery.

**21.** All such bonds, debentures, mortgages and other securities, and coupons and interest warrants thereon respectively, may be made payable to bearer, and transferable by delivery; and any holder of any such so made payable to bearer may sue at law thereon in his own name.

Company may  
become parties  
to bills and  
notes.

**22.** The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made or endorsed, or any such bill of exchange drawn, accepted or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, and under the authority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shown; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the President or Vice-President, or the Secretary and Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors, as herein provided and enacted: Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

Proviso.

One vote for  
each share.

**23.** Every shareholder of one or more shares of the said capital stock, shall, at any general meeting of the shareholders, be entitled to one vote for every share held by him and bondholders, as provided in section twenty of this Act, in the same value as shareholders.

Municipalities  
and corpora-  
tions to vote.

**24.** At all meetings of the company, the stock held by municipal and other corporations may be represented by such persons as they shall respectively have appointed in that behalf by by-law; and such persons shall, at such meeting, be entitled equally with other shareholders to vote by proxy; and no shareholder shall be entitled to vote on any matter whatever, unless all calls due on the stock held by such shareholder, shall have been paid up at least one week before the day appointed for such meeting.

Quorum.

**25.** Any meeting of the directors of the said company regularly summoned, at which not less than five directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors.

**26.** On the subscription for shares of the said capital stock, each subscriber shall pay forthwith to the directors, for the purposes set out in this Act, ten per centum of the amount subscribed by him; and the said directors shall deposit the same in some chartered bank to the credit of the said company, and not to be taken out, except for the purpose of the said company.

Amount payable on subscribing and where deposited.

**27.** Hereafter calls may be made by the directors for the time being, as they shall see fit: Provided that no calls shall be made at less intervals than one month, nor at any one time of more than ten per centum of the amount subscribed by each subscriber.

Future calls.  
Proviso.

**28.** Whenever it shall be necessary, for the purpose of procuring sufficient lands for stations or gravel pits, the said company may purchase, hold, use or enjoy such lands, and also the right of way thereto, if the same be separated from their railway, in such manner, and for such purposes connected with the construction, maintenance or use of the said railway, as they may deem expedient, and to sell and convey the same, or parts thereof, from time to time, as they may deem expedient.

Power to purchase and resell land.

**29.** Any shareholder in the said company, whether a subject or alien, or a resident in Canada or elsewhere, shall have equal rights to hold stock in the said company, and to vote on the same, and to be eligible to office in the said company.

Who may vote.

**30.** This Act, and all the provisions thereof, shall become null and void, unless the construction of the said railway be commenced within two years, and completed within five years, of the passing of the same.

Forfeiture for non-user.

#### SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS, that I (or we) (insert also the name of the wife or any other person who may be a party) in consideration of                      dollars paid to me (as the case may be) by the Presque-Isle and Belmont Railway Company, the receipt whereof is hereby acknowledged, do grant and convey (and I the said                      do grant and release, or do bar my dower in, as the case may be) all that certain parcel (or those certain parcels, as the case may be) of land, situate, (describe the land,) the same having been selected and laid out by the said company for the purposes of their railway, to hold with the appurtenances unto the said the Presque-Isle and Belmont Railway Company, their successors and assigns.

As

As witness my (*or our*) hand and seal (*or hands and seals*)  
 this                      day of                      one thousand eight hundred  
 and                      .

Signed, sealed and delivered in the presence of

(L. S.)

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SCHEDULE B.

*Chief Engineer's Certificate.*

Presque-Isle and Belmont Railway Company's Office.

Engineer's Department, Brighton,                      18     .

No.

*Certificates to be attached to cheques drawn on the Presque-Isle and Belmont Railway Municipal Trust Account in Trustees' hands, and given under sections                      of Cap.                      Vic.*

I,                      Chief Engineer for the Presque-Isle and Belmont Railway, do hereby certify that there has been expended in the construction of mile No.                      (the said mileage being numbered consecutively from the point of commencement hereof to some point within the township of Lake), the sum of                      dollars to date, and that the total *pro rata* amount due for the same from the said Municipal Trust Account amounts to the sum of                      dollars, which said sum of                      dollars is now due and payable as provided under the said Act.

*Chief Engineer.*

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CAP. LXXI.

An Act to Enable the Council of the Corporation of Port Hope to Aid, by way of Bonus, the Extension and Completion of the Port Hope, Lindsay and Beaverton Railway to Beaverton, and for other purposes.

[Assented to 23rd January, 1869.]

Preamble.

**W**HEREAS the council of the corporation of the town of Port Hope, have, by their petition, set forth that the inhabitants of the said town are greatly interested in the extension of the Port Hope, Lindsay and Beaverton Railway from



from Lindsay to Beaverton, and have agreed to aid, by way of bonus, the construction of the said work, to the extent of thirty thousand dollars; and whereas the said railway company have agreed to accept such aid, by the transfer to the said railway company of certain sterling bonds of the Port Hope Harbour Commissioners, now owned by the said municipality of Port Hope; and whereas the said proposed agreement, which forms part of this Act, has been submitted to two large and influential meetings of the ratepayers and inhabitants of the said municipality, called by the Mayor, by public proclamation in that behalf, and has on each occasion been unanimously approved by such meetings; and whereas the petitioners are advised that no law exists to enable the petitioners to grant such aid in the manner proposed, and pray that an Act be passed to enable the said town council of Port Hope to grant such aid to the said railway company by way of bonus, to the extent and by the means and for the purposes aforesaid; and whereas it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The corporation of the town of Port Hope may, in their discretion, assist and aid the Port Hope, Lindsay and Beaverton Railway Company in the extension of their railway from Lindsay to Beaverton, by way of bonus, to the extent of thirty thousand dollars, and, for that purpose, may apply such and so many of the bonds of the Commissioners of the Port Hope Harbour, now belonging to the said municipal corporation, as may be necessary.

Port Hope  
may aid P.  
H., L. & B.  
Railway Com-  
pany by bon-  
us.

2. The said debentures shall be, in the hands of the holders thereof, a charge and lien upon the said harbour, and the revenues and tolls thereof ranking next after the claim of the representative of the late George Weir, except as hereinafter mentioned.

Debentures a  
charge on rev-  
enue of har-  
bour.

3. The said debentures and the proceeds thereof, shall be applied and expended by the said railway company in, towards, and about the extension and completion of the railway of the said company from Lindsay to Beaverton, and to no other purposes whatever.

Application of  
the funds.

4. The council of the said corporation of the town of Port Hope may take and receive from the said railway company such security as has been agreed upon for the due and proper expenditure and application of the said debentures, or the proceeds thereof, in and about such extension, and for such other matters connected therewith as may be necessary for the interests of the said town; and every agreement and security that may be entered into or given in that behalf, shall be legal and valid.

Security for  
repayment.

5. Nothing in this Act contained, shall, in any wise, affect any

Act not to  
any

affect existing  
liens, etc.

any existing lien or charge on the town of Port Hope or the said harbour in respect of the Consolidated Municipal Loan Fund Debt.

*(The Intended Agreement forming part of the foregoing Act, and referred to in the first section.)*

WHEREAS the extension and completion of the Port Hope, Lindsay and Beaverton Railway from Lindsay to Beaverton, is an object of great importance to this municipality, and will tend in its results greatly to increase the trade and business of the town and harbour, and to enhance the prosperity of the town and its inhabitants; and whereas the present managers and owners of the said railway are willing and desirous of making such extension, and, with that view, have been, and are still negotiating with the municipalities chiefly interested therein for the grant, by such municipalities respectively, of such amounts in money or debentures as they can afford in aid of the said proposed undertaking, and, amongst others, have applied to this municipality in that behalf, which said this municipality is willing to afford; and whereas this municipality is the holder of certain sterling eight per cent. debentures of the Commissioners of the Port Hope Harbour, and it has been proposed that a certain portion of such harbour debentures, amounting to the sum of thirty thousand dollars, shall be employed for the purpose of aiding the said extension of the said railway, and handed over to the said railway company for that purpose and no other, and on the terms and conditions hereinafter set forth; be it therefore resolved by the council of the corporation of the town of Port Hope:

(1.) That the Mayor of this town shall and may, and he is hereby authorized, to hand over to the Port Hope, Lindsay and Beaverton Railway Company thirteen sterling harbour debentures of the Commissioners of the Port Hope Harbour, for five hundred pounds sterling each, bearing interest at eight per cent. per annum, from which all coupons for interest up to the first day of January next inclusive (1869) shall be cut off, which said harbour debentures, or the proceeds thereof, to the extent of thirty thousand dollars, and all moneys arising from the sale or hypothecation of the same by the said railway company, except the sum of sixteen hundred dollars or thereabouts hereinafter mentioned, shall be expended and applied as a bonus in and about the building and construction of the said proposed extension of the said railway from Lindsay to Beaverton, and for no other purpose; and the balance of the said debentures, or the proceeds of such balance, amounting to sixteen hundred dollars or thereabouts, shall belong to, and be paid over, by the said railway company to this municipality immediately upon the sale of the said debentures, less the proportion of discount and brokerage, if any, upon the said sixteen hundred dollars.

(2.) That

(2.) That before the said harbour debentures shall be handed over by the Mayor as aforesaid, an Act shall be obtained from the Legislature of the Province of Ontario, at the instance and costs of the said railway company, sanctioning and legalizing the presentation of this council, and declaring and providing that the said thirteen debentures shall rank and stand next after the claim of the representatives of the late George Weir upon the said harbour, and the tolls and revenues thereof, and providing and declaring, that the Mayor and council may take such security for the due and proper application of the said debentures or the proceeds of the same, to the extent of thirty thousand dollars, for the extension, construction and completion of the said railway to Beaverton, as may be agreed upon between them.

Be it further resolved, that, before such harbor debentures shall be handed over to the said railway company, the managers and directors of the said railway company shall lodge with Nesbit Kirchhoffer, Esquire, of Port Hope, mortgage bonds of the said company of an equal amount, to hold as a security for the expenditure of the said thirty thousand dollars so granted by this municipality upon and about the construction of the extension, and for no other purpose, and for the payment to this council of the said balance or sum of sixteen hundred dollars or thereabouts, less the discount thereon, if any, upon the sale of the said harbor debentures; and further as a security that, in case the said proposed extension of the said railway from Lindsay to Beaverton shall not be completed and in running order by the first day of September, 1871, the said harbor debentures shall be returned to this municipality, less the sixteen hundred dollars, or such portion thereof, as the company may have paid to this municipality, or, if the said harbor debentures should have been sold for the construction of the said extension, an equivalent therefor including interest in cash or in the bonds of the railway company so lodged with Mr. Kirchhoffer as aforesaid, at the option of the said railway company; also as a security that, in case the said railway extension be not completed by the first day of October, 1870, the said railway company shall pay off and discharge all interest accruing on the said harbor debentures after the first day of January, 1870, and until the said extension shall be completed and in running order as aforesaid, and that the company shall cause the coupons covering such last mentioned interest to be cut off and delivered up to this council to be cancelled.

And be it further resolved, that, upon the completion of the said railway to Beaverton as aforesaid, within the time limited in that behalf, that is to say, by or before the first day of September, 1871, and upon payment by the said railway company to this corporation of the said sum of sixteen hundred dollars, being the assured surplus of the proceeds of the said thirteen harbor debentures, or such other sum as such surplus, if any, shall



shall amount to, and upon the performance and fulfilment of all the terms and conditions of this arrangement by the said railway company, the said railway bonds so to be deposited in the hands of Mr. Kirchhoffer, shall, upon the order or resolution of this council, be surrendered and returned by him to the said railway company.

I, Holland Ventur Sanders, Clerk of the council of the Port Hope Corporation, do certify that the above is a correct copy of a resolution passed by the said council Monday, November 23rd, 1868.

H. V. SANDERS,  
*Clerk C. P. H.*

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## CAP. LXXII.

An Act to Provide for the Succession of Trustees of the Church and Glebe Property belonging to St. Andrew's Church, Peterborough, and to Authorize the Trustees of the said Property to Mortgage the said property, or part thereof.

*[Assented to 23rd January, 1869.]*

### Preamble.

WHEREAS it hath been made to appear by the petition of Robert Dennistoun and others, elders, managers and members of the congregation of St. Andrew's Church, in the town of Peterborough, of the Presbyterian Church in Canada, in connection with the Church of Scotland, that, by letters patent bearing date the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-six, certain parcels of land, containing by admeasurement one acre, be the same more or less, and described as lots twelve and thirteen, on the north side of Brock street, in the said town of Peterborough, were granted by the Crown to David Hamilton and others, their heirs and assigns for ever, in trust, as a glebe for a clergyman, in connection with the said Church of Scotland, in the said town of Peterborough, but the said letters patent did not provide any manner of appointing successors to the said trustees; and also that by certain other letters patent, bearing date the twenty-second day of October, in the year of our Lord one thousand eight hundred and thirty-six, that certain parcel or tract of land, containing by admeasurement ninety-one thousand eight hundred square links, being lot lettered "F," fronting on Brock street, in the said town of Peterborough, was granted by the Crown to the said David Hamilton and others, their heirs and assigns for ever, in trust, for a site of a church in the said town of Peterborough, in connection with the said church of Scotland; and the said last mentioned letters patent provided

vided that the said trustees might, by writing or writings, under seal, and executed with the formalities prescribed, appoint fit and proper persons trustees, as vacancies should happen, and no such appointment has ever been made; and the said David Hamilton is now the only survivor of the said original trustees, and he has not, for many years past, been a member of the said church or congregation; and it is desirable to provide for the appointment of new trustees, and their successors in office, in whom may be vested the said granted lots, that the said trustees should be as originally, seven in number; and that the managers of the temporal affairs of the said congregation should be the trustees, and should have the right to mortgage the said lots, or part or parts thereof, to obtain money required to complete a manse, now being erected on a part of the said premises: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said lots, and all the estate and interest therein of the original trustees named in the said letters patent, shall, by virtue of this Act, be, and are hereby declared to be, vested in fee simple in Robert Romaine, Robert Renfrew, William Lundy, Thomas Fortye, John Carnegie the younger, David Pentland and George Edmison, (they being the managers of the temporal affairs of the congregation,) and in their successors in office, to be appointed as hereinafter provided, upon the trusts set forth in the said letters patent.

Lands heretofore vested in certain trustees, vested in Robert Romaine and others,

2. The trustees above named shall continue to be trustees until the annual meeting of the said congregation, in the year of our Lord one thousand eight hundred and seventy, when the two senior trustees, being the first named, shall cease to hold office, and two trustees, who shall likewise be managers of the said temporal affairs of the congregation, shall be chosen by the congregation in their place, at such annual meeting, or at some other subsequent meeting held for that purpose; and the trustees so vacating office shall be eligible for re-election; and the names of the trustees so chosen shall be placed at the foot of the general body of trustees, and the like practice shall be continued in each succeeding year.

whoshall continue trustees until, etc.

3. The said trustees shall and may, from time to time, have and exercise all the rights and privileges conferred by the fourth, fifth, sixth and seventh sections of chapter sixty-nine, of the Consolidated Statutes of Upper Canada, as if the same were incorporated in and formed part of this Act.

Trustees may exercise certain rights, etc.;

4. It shall be lawful for the said trustees, or a majority of them, to borrow a sum of money not exceeding one thousand two hundred dollars, to finish and complete a manse, now being erected on a part of the said premises, and secure the money

and may borrow money to complete manse.

so borrowed, and interest thereon, by a mortgage on the said property, or a part thereof.

Not to affect  
present leases.

5. This Act shall not affect or interfere with the rights of any party or parties under existing leases of any part of any of the said property.

### CAP. LXXIII.

An Act relative to certain Streets in the City of London, in this Province.

[Assented to 23rd January, 1869.]

Preamble.

**W**HEREAS by certain letters patent, under the great seal of the late Province of Canada, bearing date the nineteenth day of August, in the year of our Lord one thousand eight hundred and forty-six, Her Majesty the Queen granted, or purported to grant, to one John Balkwill in fee simple, certain lands situate in the then town (now the city) of London, in this Province, containing fourteen acres, more or less, being composed of the mill site on the east branch of the river Thames, and more particularly described in the said letters patent by metes and bounds; and whereas the said lands had been previously surveyed and laid out as a mill site, and as such were sold at public auction, in the year one thousand eight hundred and thirty-nine, subject to the condition of erecting mills thereon; and whereas by a certain indenture, dated the seventeenth day of May, in the year one thousand eight hundred and forty-nine, the said John Balkwill granted and conveyed to James Hamilton, Esquire, the then Sheriff of the London District, a strip or portion of the said land one chain in width in trust for a public highway, reserving the right to make a tail race or covered water-way under and across the said strip of land, and to use the same forever, and which strip of land is now the continuation of Ridout Street through the said mill site; and whereas previously to the sale or survey of the said mill site, certain streets called respectively, Grey street, Simcoe street, Talbot street and Ridout street had been surveyed and laid out through the said lands to the river Thames, in the original survey of the said town, which streets were not laid down on the plan of survey of the said mill site, nor were they reserved at the said sale, or in the said letters patent; nor were the said lands sold or granted subject to the said streets; and the said lands (except the continuation of Ridout street aforesaid,) have remained for many years in the occupation and possession of those claiming under the said letters patent, but it has been recently in effect decided that the said streets were public highways by having been laid out as such previously



previously to the survey of the said mill site; and whereas mills and other valuable improvements have been erected and made upon the said lands; and the opening of the said streets through the said lands would greatly injure the said property; and Charles Hunt the present owner thereof has applied for relief in the premises: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The said letters patent, and the grant thereby made of the said mill site and lands therein described, are hereby confirmed, and those parts of the said streets or highways which are situate within the limits or boundaries of the said mill site or lands shall be deemed and adjudged to have been legally closed by the said grant, and to have thereby ceased; and the said mill site and lands shall be deemed and adjudged to have passed to the said John Balkwill in fee simple free from any highway or public right of way through or over the same or any part or parts thereof.

Letters patent confirmed and certain streets in city of London closed.

#### CAP. LXXIV.

An Act to Grant Relief to Lady Smith, and to Enable her to Manage the Estate of her late husband, Sir Henry Smith.

[Assented to 23rd January, 1869.]

WHEREAS Mary Smith, usually called Lady Smith, Widow Preamble. and Executrix of the late Honourable Sir Henry Smith, in his lifetime of Kingston, in the Province of Ontario, Knight, deceased, Henry Robert Smith, Philip Herbert Smith and Mary Tolbert Smith, children of the said late Sir Henry Smith and Lady Smith, who have now attained the age of twenty-one years, on their own behalf; and whereas the said Lady Smith, acting with the consent and approbation of Martha Pember Smith, aged nineteen years, William Draper Smith, aged eighteen years, James Burrowes Smith, aged sixteen years, Charles Frontenac Smith, aged fourteen years, and Arthur Montague Smith, aged twelve years, infant children of the said Sir Henry Smith and Lady Smith, have, by their petition, set forth that the said Sir Henry Smith died on the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight, having first made his last will and testament in the following words, to wit: "In Copy of will. the name of God, Amen. I, Henry Smith, the younger, of the Town of Kingston, in the Midland District, and Province of Upper Canada, Esquire, do make, ordain and publish my last will and testament as follows: I give, devise and bequeath to my wife, Mary Smith, all and singular my estate, "real

"real and personal, to have and to hold the same and every  
 "part thereof, to her heirs and assigns for ever, and I appoint  
 "her my sole executrix.

(Signed), HY. SMITH, Jr.

"Signed, sealed and published, as well as  
 "declared, at Toronto, in the Home  
 "District, this fifth day of December,  
 "1837, in presence of

"(Signed), B. SMITH, Toronto.

"(Signed), JOHN SOMERVILLE, Toronto;"

and whereas the said Lady Smith has duly proved the said will, and taken upon herself the administration of the said estate; and whereas, since the date of the said will, the said Sir Henry Smith, in his lifetime, bought and sold large quantities of land and personal property, entered into contracts for the sale and purchase of properties, which contracts remain still to be completed by conveyances; and, at the time of his death, was largely interested and concerned in various partnership and other concerns and dealings; and whereas, in the opinion and belief of the petitioners, it was the will and intention of the said testator Sir Henry Smith, to make and constitute his said wife his sole devisee, legatee and executrix of his said estate, by his said will, but that the words employed by him to express such intention are open to a doubt in respect of property and rights, acquired by him subsequent to the date of the said will; and whereas the existence of such doubts is calculated to occasion great delay, difficulty and expense in winding up the affairs of the said estate, and great loss and trouble to the petitioners and others concerned; and whereas to avoid such doubts as the petitioners are advised, it is necessary that an Act of the Legislature should be obtained to declare the effect and operation of the said will, and thereby to enable the said petitioner, Lady Smith, to wind up the said estate to the best advantage, for the benefit of herself and family, and praying that an Act may be passed to provide that all the estate, real and personal, of which the said Sir Henry Smith died, seized or possessed, or to which he was entitled, or in which he was interested at the time of his death, should be vested in the said petitioner, Lady Smith, as fully and absolutely as the same was held by him, the said Sir Henry Smith, at the time of his death, and subject to the same charges and liabilities; and whereas it is expedient to grant the prayer of the said petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts and declares as follows:—

Intention and  
 meaning of  
 will declared.

1. All the estate, real and personal, of which the said Sir Henry Smith died, seized or possessed, or to which he was entitled, or in which he was interested at the time of his death, is hereby vested in the said Mary Smith, commonly called Lady Smith, and her heirs, as fully and absolutely as if the same had been devised

devised and bequeathed to her and her heirs by the last will of the said Sir Henry Smith, but no further or otherwise, and subject to the same debts, charges, liabilities and trusts to which the same was subject in the hands of the said Sir Henry Smith at the time of his death: Provided always, that so much Proviso. of the said estate as according to law, upon the death of the said Sir Henry Smith, passed and belonged beneficially to his said infant children, shall be held by the said Mary Smith as between her and the said infant children, as a trustee for them respectively, according to their respective shares and proportions as by law established, upon trust for the realization of the same, and the investment, from time to time, of the proceeds on real or Government securities, and the application, during the minority of each child, of the rents, interest and dividends accruing from the share of each of the said infant children, in or towards the maintenance and education of such child: Provided also, that the existence of the said trust shall not Proviso. effect the position of any *bona fide* purchaser for value of any part of the said estate from the said Mary Smith.

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## CAP. LXXV.

### An Act to Incorporate the Hellmuth Ladies' College.

[Assented to 23rd January, 1869.]

**W**HEREAS it has been represented to the Legislature of this Preamble. Province, that the Very Reverend Isaac Hellmuth, D.D., Dean of Huron, Adam Crooks of the city of Toronto, Esquire, and Major Richard John Evans of the city of London, late of Her Majesty's Sixteenth Regiment of Foot, are engaged in erecting and establishing a school in the vicinity of the city of London, for the education of young ladies; and whereas the incorporation of the said school would tend greatly to perpetuate and extend its usefulness, and promote the purposes for which it is being established: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. There shall be, and there is hereby constituted and establish- Incorporation.  
ed, in the vicinity of the city of London, Ontario, a body politic and corporate under the name of "The Hellmuth Ladies' College," which corporation shall consist of the said Very Reverend Isaac Hellmuth, D.D., Adam Crooks and Richard John Evans, with such other and additional persons as, from time to time, may become associated with them, or, by the constitution of the said corporation, may become members thereof; and the said persons shall be the trustees of the corporation, and shall have  
the



the control, management and government thereof; and shall also have power to make rules and regulations, not contrary to law or the provisions of this Act, for the government and management of the said corporation, and the affairs and property thereof, as well as the affairs and property relating to the said trustees in the execution of their duties; and all Acts and doings of a majority of the said trustees, shall be of the same force and effect as if all of them had joined in such acts or doings.

Powers of  
corporation.

2. Such corporation shall have power, at all times hereafter, to purchase, acquire, hold, possess and enjoy such lands and tenements as may be necessary for the actual use and occupation of the said corporation in the vicinity of London, and the same to sell, alienate and dispose of and others in their stead to purchase, acquire and hold for the use and purpose aforesaid: Provided always, that the annual value of the real estate held by it at any one time, shall not exceed the sum of five thousand dollars current money of this Province.

Proviso.

Provision in  
case of death,  
etc., of trus-  
tees.

3. In case of any vacancy or vacancies occurring in the number of the said trustees, by death, resignation or otherwise, such vacancy or vacancies shall and may be filled up in such manner as may be provided in the rules and regulations of the said corporation.

Returns.

4. The said corporation shall, at all times, when thereunto required by the Lieutenant Governor or the Legislature, make a full return of its property, real or personal, and of its receipts and expenditure, for such period, and with such details and other information, as the Lieutenant Governor or the Legislature may require.

Extent of  
liability of  
shareholders.

5. Any proprietor or holder of any share or interest in the capital of the said corporation, is hereby declared to be free from any individual or personal liability beyond the unpaid amount of any share or shares held by him in respect of the debts, engagements or obligations of the said corporation.

## CAP. LXXVI.

### An Act to Incorporate the Caledonia Peat Manufacturing and Smelting Company.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS certain persons have, by their petition, prayed that they may be incorporated under the title of "The Caledonia Peat Manufacturing and Smelting Company," for the

the purpose of manufacturing peat fuel in the township of Caledonia, and other townships in the county of Prescott, and of transporting the same to a market, or to smelting works, by means of a canal or railway, or both, connecting the peat beds with the navigable waters of the Ottawa River, as well as for the smelting of ores by means of the said fuel, or for other purposes requiring its use, at or near its place of production; and whereas it is expedient to grant the prayer of the said petitioners: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Honourable John Hamilton, Allan Gilmour, Peter Redpath, Thomas Reynolds, Edward M. Hopkins, R. W. Shepherd, G. A. Drummond, Henry Lyman, Edwin Atwater, Walter Shanley, James Hodges, the Honourable Thomas Ryan, Hugh Allan, W. G. Perley, J. C. T. Cochrane, Romeo H. Stephens, B. Hutchins, James Merrill Currier, Horace Merrill, Henry O. Burritt, Thomas C. Keefer and such other persons as now are, or hereafter shall become, shareholders of the said company, shall be, and they are hereby made and constituted a body corporate and politic, by and under the name of "The Caledonia Peat Manufacturing and Smelting Company." Incorporation.

2. The capital stock of the said company shall be two hundred thousand dollars, in shares of twenty dollars each. Capital and shares.

3. The company may commence operations and exercise the powers hereby granted, so soon as twenty thousand dollars of the capital stock shall be subscribed, and ten per centum thereon paid up. When company to begin operations.

4. The company is hereby authorized and empowered to construct, maintain and use a double or single railway, or tramway of wood or iron, or both, and a canal, with all necessary locks, dams, wharves, piers and booms, from any point in the townships of Caledonia or of Alfred to the navigable waters of the Ottawa River, or in connection therewith, either direct, or by the route of the South Nation River. Power to construct railway or tramway, etc.

5. The several clauses of the Railway Act of the Consolidated Statutes of Canada and the amendments with respect to the first, second, third, fourth, fifth and sixth clauses thereof, and also the several clauses thereof with respect to "Interpretation," "Incorporation," "Powers," "Lands and their Valuation," except the sub-sections fifth and sixth; "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for Indemnity, and Fines and Penalties, and their Prosecution," "By-laws," "Notices, &c.," "Working of the Railway" and "General Provisions," shall be incorporated with Clauses of the Railway Act applicable.

Proviso.

with, and be deemed to be part of this Act, and shall apply to the said company, and to the railway and canal to be constructed by them, except only so far as they may be inconsistent with the express enactments hereof; and the expression "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act as aforesaid: Provided that nothing contained in this Act, or in the clauses of the Consolidated Act herein incorporated, shall be construed to compel the said company to carry passengers or freight.

Provisional directors.

6. Edward M. Hopkins, Walter Shanly, James Hodges, R. W. Shepherd, Henry O. Burritt, Thomas Reynolds and Thomas C. Keefer shall be provisional directors of the said company, and shall severally hold their offices until the first election of directors, which first election may take place so soon as the amount of stock is subscribed, and the per centage thereon paid up; and, for the purposes of this election, the provisional directors, herein named, may appoint any place in the city of Montreal, or in the city of Ottawa, where such election may be held, by ballot as aforesaid, by giving one month's previous notice, to be published in one or more of the daily papers in either of the said cities, at least three several times.

Directors when and how elected.

7. The affairs of the company shall be under the control of, and shall be managed and conducted by a Board, to consist of not less than three, nor more than nine, directors, three of whom shall form a quorum; and the directors to be elected under the provisions of this Act, shall each be stockholders to an amount of not less than one thousand dollars, and shall be elected on the first Tuesday in May of every year, after that in which the company first goes into operation, at the office of the company; and all such elections shall be by ballot, by a plurality of the votes of the stockholders present, or by proxy, each share to have one vote.

General meeting therefor, when to be called.

8. As soon as shares to the amount of twenty thousand dollars of the capital stock of the said company shall have been subscribed, and ten per centum thereof paid into some chartered bank, the directors shall call a general meeting of the subscribers for the said capital stock, who shall have so paid up ten per centum thereof for the purpose of electing directors of the said company.

Default to elect on the day no forfeiture.

9. If the election of directors be not made on the day appointed by this Act, the company shall not, for that reason, be dissolved, but the stockholders may hold the election on any other day in the manner provided for by any by-law previously passed, either by the directors or stockholders for that purpose; and all the acts of the directors, until their successors shall be elected, shall be valid and binding on the company.



**10.** The directors of the company shall have power and authority to make, amend, repeal and re-enact all such by-laws, rules, resolutions and regulations as shall appear to them proper and necessary, touching the well ordering of the company; the number of its directors, their qualification and a quorum thereof; the making of calls; the acquisition, arrangement and disposition of its stock, property and effects, and of its affairs and business; the entering into arrangements and contracts with the municipalities or other corporations or individuals; the declaration and payment of dividends; the form and issuing of stock certificates, transfers and registration; the allotment and forfeiture of stock; the calling of special and general meetings of the company; the appointment, removal and remuneration of all officers, agents, clerks, workmen and servants of the company; and generally, to do all that may be necessary to carry out the objects and exercise the powers incident to the company.

Powers of directors, etc.

**11.** The company may purchase, lease, hold, acquire and transfer all real and personal estate necessary for carrying on the operations of the company, and for transporting its ores, fuel, manufactures or other property.

Company may acquire land.

**12.** The stock of the company shall be deemed personal estate, and shall be transferable in such way as the directors shall by by-law direct.

Stock to be personal property.

**13.** The company is hereby authorized to increase their capital stock whenever a majority of the stockholders, called as provided in the Act relating to Joint Stock Companies, twenty-two Victoria, chapter sixty-three, section thirty-nine, shall decide to make such increase; and the provisions of the said Act for increasing the capital stock, from section thirty-nine to section forty-six, both inclusive, are hereby incorporated with this Act in so far as they are not inconsistent with the same.

Increasing capital.

Certain provisions of 22 Vic., chap. 63, to apply.

**14.** The directors of the company may, from time to time, borrow, for the purposes of the company, any sum or sums of money not on the whole exceeding one hundred thousand dollars, by the issue of bonds or debentures, in sums of not less than one hundred dollars, on such terms as they may think proper, and may pledge all the property, income of the property, or any part thereof, for the repayment of the money so raised or borrowed, and the payment of the interest thereon: Provided always, that the consent of three-fourths in value of the stockholders of the company shall be first had and obtained at a special meeting to be called and held for that purpose, of which the like notice shall be given as aforesaid: Provided also, that the said company shall not be authorized, at any time, to borrow a sum not exceeding the amount of the capital stock then paid up.

Company may borrow money, issue debentures and mortgage property to a certain extent.

Proviso.

Proviso.

Powers of extension.

Where and how exercised.

31 Vic., chap. 30, sec. 44, to apply.

Company may become party to bills, and notes.

Provided

Head office.

Forfeiture or non-user.

**15.** The company shall have power to extend their peat excavations, canal or railway tracks, upon, along and across any of the unoccupied or unopened road allowances in the immediate vicinity of their works, with the consent of the municipalities within which or between which the said road allowances may be situated; and the said municipalities are hereby authorized to enter into agreements with the company for the granting of so much of the said road allowances as may be required in the manufacture and transportation of peat fuel, or in the smelting of ores, or for other purposes; subject to all the sections of the Act relative to the municipal institutions of Upper Canada in regard to roads and highways.

**16.** Section forty-four of chapter thirty of the Act passed in the first session of the Legislature of Ontario shall apply to this Act.

**17.** The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made or endorsed, or any such bill of exchange drawn, accepted or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, and under the authority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill of exchange so made, shall be presumed to have been made with proper authority, until the contrary be shewn; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the President or Vice-President, or the Secretary and Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors, as herein provided and enacted: Provided, however, that nothing in this section shall be construed to authorize the said company to issue any note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

**18.** The company may establish its head office either in the city of Montreal or Ottawa, or in the county of Prescott.

**19.** This Act, and all the provisions thereof, shall become null and void, unless the construction of the said railway or tramway or canal be commenced within two years, and completed within five years from the passing of this Act.

## CAP. LXXVII.

## An Act to Incorporate the Hamilton Mutual Fire Insurance Society.

[Assented to 23rd January, 1869.]

WHEREAS B. E. Charlton, Robert Roy, John Eastwood, Preamble.

James Craigie, George James, James Walker, John Harvey, R. N. Law, George Lee and William Brown, of the city of Hamilton, have, by their petition, represented that they are desirous of associating themselves together for the purpose of transacting the business of fire insurance on the mutual system, in the said city of Hamilton, within the range of the hydrants, under the name of "The Hamilton Mutual Fire Insurance Society;" and whereas the water works of the said city afford very great facilities for the speedy extinguishing of fires, as has been proved by experience, the destruction of property within the range of the hydrants having been very small in comparison with that of property situate elsewhere; and whereas the mutual system of fire insurance has been found to be the most economical for insurers to adopt, the profits derived therefrom being divisible among the insurers alone: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. B. E. Charlton, Robert Roy, John Eastwood, James Incorporation.  
Craigie, George James, James Walker, John Harvey, R. N. Law, George Lee and William Brown, of the said city of Hamilton, and such other persons as may hereafter become members of the said society, are hereby constituted a mutual fire insurance society, under the name and style of "The Hamilton Mutual Fire Insurance Society," for the purpose of granting insurances against loss or damage by fire upon any description of property, in the city of Hamilton, within the range of the hydrants now erected, or hereafter to be erected, in connection with the water works of the said city.

2. The society, under the name aforesaid, may issue policies May issue policies.  
of insurance against loss or damage by fire for one year, or for periods less than one year; and the premiums thereon shall be paid in cash; and no policy shall be in force until the premium thereon shall have been paid; but such policies may be renewed, from time to time, at the discretion of the Board of directors by renewal receipts, on the holders of such policies paying the premiums required to renew the same; and all policies shall cease to be in force as soon as the periods for which they may have been respectively issued or renewed, in manner aforesaid, shall have expired.

3. The premiums so received shall be applied in payment of Application of the premiums.



the proportion of the outlay of the company which the insured, who will have paid the same, will have incurred during the periods over which their respective policies may have extended; and should any surplus remain over and above what may have been so incurred, the same may be either returned to or held at interest, not to exceed seven per centum per annum, for the benefit of those *pro rata* from whom it may have been received; or the directors may create out of the said surplus a reserve fund to meet any deficiency that may arise from the outlay of the said company during any year exceeding its receipts.

Renewal receipts to be signed and countersigned.

4. No policy or renewal receipt shall be binding on the said society, unless signed by the President or Vice-President, and countersigned by the Secretary thereof.

Management.

Quorum.

5. The management of the said society shall be under the control of a Board of directors, which shall consist of a President, Vice-President and five other directors, three of whom shall constitute a quorum for the despatch of business.

First election of directors.

6. The first Board of directors shall be elected within six months after the passing of this Act, at a general meeting of the parties who have subscribed their names in the subscription book of the society, of which meeting, and its time and place, notice shall be published in two daily papers in the city of Hamilton during ten days preceding the day of such meeting.

Next elections.

7. The said Board of directors shall continue in office until the second Monday in January, which will be in the year of our Lord one thousand eight hundred and seventy, when there shall be a meeting of the members of the said society for the election of a board of directors; for the reception of the report of the proceedings of the Board then retiring; for the disposal of the surplus, if any; or for making provision for the deficiency, if any; and for any other purpose that may be requisite for the well-being of the society, of which meeting the notice required in the last clause shall be given.

Annual meetings.

8. The annual meeting of the members of the said society, for the above recited purpose, shall be held on the second Monday of January in each year after the year one thousand eight hundred and seventy.

Election by ballot.

9. The election of the Board of directors shall be by ballot from among the members of the said society; and members alone shall be entitled to vote at any annual or other meetings; and each insurer in the said society shall be deemed a member of it.

Vote

10. An insurer of from four hundred dollars to eight hundred dollars shall be entitled to one vote; of over eight hundred dollars to two thousand dollars, to two votes; and over two thousand dollars

dollars, to three votes at any annual or other meeting of members.

11. Special meetings of members may be called on the written requisition of any twenty members to the Board of directors to call the same; and such Board shall be bound to call such special meetings, on such requisition being presented to them, within twenty-one days thereafter; and every such special meeting shall be called on the like notice as aforesaid. Special meetings.

12. For the purpose of providing against any such contingency as the outlay of the society exceeding its receipts during any year, the members of the said society are hereby empowered to raise among themselves such a sum of money as may be deemed ample for the purpose, to pay interest thereon to the members contributing thereto, at a rate not exceeding seven per centum per annum, and to repay such sum of money out of the surplus from premiums, whenever there shall be a sufficient surplus for that purpose. May raise money for temporary purposes.

13. The said society may, by and in its corporate name, purchase, have and hold any estate, real, personal or mixed, to and for the actual use of the society, and may, from time to time, let, convey and otherwise depart therewith on account of, and for the benefit of the society; but such real estate shall not exceed the yearly value of two thousand dollars. May hold limited real estate.

14. No agent, paid officer or employee of the said society, shall be eligible to be elected a director, or be allowed to hold proxies, or to interfere in the election of directors of the society. No paid officer to be a director or hold proxies.

15. The election of directors shall be held and made by such members of the society as attend for that purpose, in their own proper persons or by proxy, all of which proxies shall bear date at least one month before the election at which they are used, and be filed with the Secretary of the society at least thirty days before such election. How directors elected.

16. If any vacancies happen among the directors during the current year of their appointment by death, resignation or removal from the city of Hamilton, such vacancies shall be filled up for the remainder of the year by a person or persons duly qualified, to be nominated by a majority of the remaining Directors, and as soon as may be after the vacancy occurs. Filling vacancies in board.

17. In case an election of directors be not made on the day on which it ought to have been made, the corporation shall not for that cause be dissolved, but the election may be held on any subsequent day, within six months from the day appointed for holding the annual election, according to the provisions of the by-laws and ordinances of the corporation. If election not on the day.

Treasurer and Secretary to give security.

**18.** Every Treasurer and Secretary to the said society shall, before he enters upon the duties of his office, give a bond to the society, with two sufficient securities, to the satisfaction of the Board of directors, conditioned for the faithful discharge of the duties of the office of such Treasurer and Secretary, agreeable to the provisions of this Act, and of the by-laws, rules and regulations of the society made pursuant thereto.

Board of directors to have management.

**19.** The Board of directors, for the time being, shall superintend, and have the management of the funds and property of, and of all matters relating to, and not otherwise provided for by the society.

Powers of Board.

**20.** The Board may, from time to time, (1) appoint a Secretary, Treasurer, and such other officers, agents and assistants, as to them seem necessary; (2) prescribe their duties; (3) fix their compensation or allowances; (4) take such security from them as they deem necessary, or as may be required by this Act, for the faithful performance of their respective duties; (5) remove them at pleasure, and appoint others instead; (6) determine the rates of insurance, and the sum to be insured on any building; (7) direct the making and issuing of all policies of insurance; (8) provide books and stationery, and other things needful for the office of the society, and for carrying on the affairs thereof; (9) draw upon the Treasurer, for the payment of all losses by, and for expenses incurred in transacting the concerns of the society; (10) hold their meetings monthly, and oftener, if necessary, for transacting the business of the society; and (11) keep a record of their proceedings.

How funds to be invested.

**21.** The directors of the said society may invest the funds of the society in any of the public securities of the Dominion of Canada, or of any of the Provinces forming or to form the said Dominion, and in the bonds and debentures of any of the municipal corporations of Ontario, and in mortgage on real estate.

Board may make by-laws.

**22.** The Board of directors may, from time to time, make and subscribe such by-laws, ordinances, rules and regulations, as to them appear needful and proper respecting the funds and property of the society, the duty of the officers, agents and assistants thereof, the effectual carrying out the objects contemplated by this Act, and all such other matters as appertain to the business of the society, and are not contrary to the laws of the Province of Ontario; and may, from time to time, alter and amend the same, except in cases with regard to which it is provided that any such by-law shall not be repealed, or where such repeal would affect the rights of others than members of the Society, in any of which cases such by-laws shall not be repealable.

Quorum.

**23.** Three directors shall constitute a quorum for the transaction



action of business; and the decision of a majority of the quorum present at any sitting of the Board, shall be binding and conclusive on the Board.

24. In case of an equality of votes at any such sitting of the Board, the President shall have a casting vote. Casting vote.

25. Should the directors deem it advisable to create a reserve fund out of the surplus premiums received, they shall grant to each contributor to the said reserve fund, scrip bearing interest at a rate not to exceed seven per centum per annum for the amount so contributed by him, such scrip to become payable whenever the said reserve fund shall have amounted to twenty thousand dollars; and the earliest scrip shall be paid first. Reserve fund may be created.

26. The said society shall not issue any policy of insurance until the subscription book of the said society contains the names of one hundred or more persons, who, by their signatures in the said subscription book, signify their intention and agree to insure property in the said society to an amount of not less than one hundred thousand dollars. When to commence issuing policies.

27. This society may make and effect contracts of insurance, for the purpose of re-insurance, on its own risk only, with any other insurance company incorporated by or under any statute of this Province, or of the Imperial Parliament, or any foreign fire insurance company, legally authorized to do business in this Province, against loss or damage by fire on any houses, stores or other buildings, and in like manner on household goods and merchandize. Reinsurance.

28. No action or suit, either at law or in equity, shall be brought against this society upon any policy or contract of insurance to be granted or entered into by this society, after the lapse of one year next after the happening of the loss or damage in respect of which such action or suit is brought. Limitation of actions.

## CAP. LXXVIII.

An Act to Relieve the Trustees of the Honourable John Elmsley, late of Toronto, from the Trusts in a certain Indenture mentioned, and to Vest the Property therein mentioned in Charlotte Elmsley.

[Assented to 23rd January, 1869.]

WHEREAS by an indenture bearing date the fourteenth day of January, one thousand eight hundred and fifty-one, made between John Elmsley, of the city of Toronto, in the

Preamble.

the Province of Canada, Esquire, of the first part, Charlotte Elmsley, wife of the said John Elmsley, of the second part, and George Sherwood of the town of Brockville in the district of Johnston, Esquire, John Crawford, of the said city of Toronto Esquire, and William Brown Phipps, of the said city of Toronto Esquire, of the third part, the said party of the first part did, for the consideration therein mentioned, bargain, sell and confirm to the said parties of the second part certain lands and premises therein mentioned and described, to have and to hold unto the said parties thereto of the third part, the said lands and premises to the uses and upon the trusts to pay the yearly rents, issues and profits of the same into the hands of Charlotte Elmsley, his wife, during the term of her natural life, to her separate uses and free from the control and debts of her husband, and, after her death, upon such trusts and for such uses as the said Charlotte Elmsley, notwithstanding her coverture, should, by deed or will, direct and appoint, and, in case of no such appointment or will, then upon trust to pay such rents, etc., for the support and maintenance of such of the children of the said Charlotte Elmsley, by the said John Elmsley, as should survive their mother, the issue of any such child or children to take the parent's share, and also in trust to sell or exchange the trust property for money or an equivalent in land, or bank stocks as the trustees, or any two of them should think reasonable, with the consent of the said Charlotte Elmsley, during her lifetime; and as soon as the youngest of the children of the said Charlotte Elmsley, by the said John Elmsley, should attain the age of twenty-one years, the said Charlotte Elmsley being dead, or if she should then be alive, immediately after her decease, upon trust, to divide the trust estate equally among the children, the issue of any such children dying before the division made, to take the share to which such child would have been entitled; and in case of the death of all the children without lawful issue before the youngest child should have attained the age of twenty-one years, then the whole of the said trust estate to be conveyed and transferred to the benefit of the Roman Catholic Episcopal Corporation of the diocese of Toronto in Canada, to have and to hold the same to the said corporation forever, and to be disposed of and used as the said corporation shall think fit; and whereas the said trustees entered upon the trusts, and have, from time to time, with the consent of the said Charlotte Elmsley, sold and conveyed a portion of the lands under the said indenture mentioned; and whereas the said John Elmsley, on or about the eighth day of May, one thousand eight hundred and sixty-three, departed this life, leaving the said Charlotte Elmsley his sole devisee; and whereas Remigius Elmsley and Sophia Elmsley are the only surviving children of the said Charlotte Elmsley and the said John Elmsley, and they have respectively attained the age of twenty-one years, all the other children having died without issue; and whereas the said trustees are desirous of being relieved from the burden of the said trust, and Charlotte Elmsley, Remigius Elmsley and Sophia

Sophia Elmsley and the Roman Catholic Episcopal Corporation are willing that they should be relieved, and the property now held by them, under the said trust, be vested in Charlotte Elmsley; and have petitioned for an Act for that purpose: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. The said George Sherwood, John Crawford and William Brown Phipps are, and each of them is, relieved from the said trust, and are discharged, individually and collectively, of and from all liability to the said Charlotte Elmsley, Remigius Elmsley, Sophia Elmsley and the Roman Catholic Episcopal Corporation, their or any of their heirs, administrators, successors or assigns, for or in respect of any or all of their acts done and performed in and about the said trust, or the receiving any money or moneys by virtue of the said indenture. Trustees indemnified.

2. The lands in the said indenture mentioned, remaining unsold at the passing of this Act, shall be vested in the said Charlotte Elmsley in fee. Lands vested in Charlotte Elmsley;

3. All mortgages, bank or other stocks, municipal or other debentures, notes or other securities, which may have been taken, received or purchased, by and out of the trust money, or in exchange for lands sold belonging thereto, or in the investment of the funds of the estate, and all property, real or personal, in any way received by the said trustees, as a part of the said trust estate, is and are hereby vested in the said Charlotte Elmsley, to and for her own use and benefit forever. also personal estate.

4. All sales of or contracts for sales of land, made by or on the part of the said trustees, shall be binding upon the said Charlotte Elmsley, her heirs and assigns, to the same extent as they now bind the said trustees; and the said Charlotte Elmsley is hereby authorized, and it shall be her duty, to complete the said sales, and perform the said contracts; and any person or persons having any claim or right in, for or on account of any such sale or contract, shall have the same power or privilege of enforcing the same against the said Charlotte Elmsley, her heirs, executors and assigns, as he or they would or could have had against the said trustees if this Act had not been passed. Contracts with trustees confirmed.



## CAP. LXXIX.

An Act for the Relief of William Houghton Bell and others interested in the Estate of the late Thomas Bell.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS William Houghton Bell, of the city of Toronto, Gentleman, Charles Thomas Bell, of the same place, Gentleman, Thomas Hawkins Lee, of the same place, Merchant, and Emily Ann, his wife, have, by their petition, represented that the late Thomas Bell, in his lifetime, of the city of Toronto, Esquire, duly made his last will and testament, executed so as to pass real estate by devise in this Province, whereby, in the first place, he ordered and directed that all his just and lawful debts and funeral expenses should be paid as soon as possible after his death, or as soon as means should be available, without forcing a sale of any of his property; and, in the second place, after the payment of all his debts, he charged the whole of his estate, with the support of his wife, Catharine Bell, during her life or widowhood, to the extent in the said will stated; and, in the third place, he charged the whole of his estate with the support of his daughter, the petitioner, the said Emily Ann Lee, then Emily Ann Bell, so long as she should remain at home with her mother, single and unmarried; and, in the fourth place, he charged the whole of his estate with the support and education of his son, the petitioner, Charles Thomas Bell, until he should attain the age of twenty-one years; and, in the fifth place, he declared it to be his will that the whole of his income from his estate should, in the first place, be charged with the payment of all assessments and taxes, and repairs to buildings and insurances, which charges were, in all instances, to be the first upon his estate, and which should, in all instances, be paid before any legacies, and out of the first moneys coming into the hands of his trustees, in the said will named; and that, in the sixth place, he declared that, after the payment of such prior charges, the then next charge upon his estate should be the support of his said wife and daughter, and his said son, Charles Thomas Bell, as hereinbefore mentioned; and, in the seventh place, he directed that after the payment of taxes, assessments and ground rents, and of the provisions thereinbefore made, for the support of his said wife and daughter and his said son, the surplus of the said income, if any, should be divided into two parts, one to be invested for his son, the petitioner, Charles Thomas Bell, and the other given to his son, the petitioner, William Houghton Bell, at the time of such division of the said surplus, if any; and that the portion going to the petitioner, Charles Thomas Bell, should be placed at interest for him until he should arrive at the age of twenty-one years, unless the trustees should think

think it more advisable to let him have it before ; but as to that he left it to the discretion of the said trustees to see that the said Charles Thomas Bell made a good use of it ; and in the eighth place, in the event of the petitioner, his daughter, Emily Ann Lee, marrying before a final division of his estate, as therein after provided for, he charged his estate from the time of such marriage, with the annual payment to her of the sum of thirty pounds, in lieu of the support thereinbefore provided for, and all other claims upon his estate, until the said general division thereof should take place ; and in the ninth place, for the purpose of enabling his said trustees to carry into effect his said will, he gave, devised and bequeathed to them, and the survivors of them, the whole of his real and personal estate and effects, that he might be possessed of, or entitled to upon trust, to hold the same for the purposes of his said will, and for the purpose of selling or conveying the same by deed or lease, but in no case to sell, except for the actual payment of debts ; and he thereby gave full authority to any two of his trustees to convey such lands as he might have become bound to convey, but no such deed was to contain any covenant by which his estate might be affected, and, in the case of leases, no lease was to contain any covenant whereby the property should be encumbered for a greater period than twenty-one years, and no lease to contain covenants for the payment of build-ings or improvements, but might contain a covenant for further renewal for twenty-one years, at such increased valuation of ground rent as should be agreed upon in the usual way ; and, in the tenth place, he declared it to be his will, that, upon the petitioner, Charles Thomas Bell, attaining the age of thirty years, the whole of his estate and effects should be divided into three parts, as nearly equal as possible in situation, value and quantity ; and that one equal third part thereof should be held by the petitioner, William Houghton Bell, as trustee for his brother, the petitioner, Charles Thomas Bell, during his life ; and that another equal third part thereof should be held by the said Charles Thomas Bell, as trustee for the said William Houghton Bell, during the lifetime of the said William Houghton Bell ; and that the remaining equal third part should be held by the said William Houghton Bell and Charles Thomas Bell, as trustees to and for the use of the said Emily Ann Lee, during her life, but that such trusts should not prevent any of the said parties from managing his or her own portion of the said property, or from receiving the rents and profits, or from occupying the whole or any part thereof during his or her life : Provided that the same should be with the consent in writing, of his or her trustee or trustees, but that no lease should be granted unless with the written consent of the trustee or trustees, who should have full power at any time to receive the rents and profits, for the purpose of paying them over after deducting taxes and repairs ; nor was either of his said sons, or his daughter, to be prevented from devising his or her share or portion of the estate so to be set apart, either before it should  
be

be so set apart or afterwards : Provided that such devise should be to his or her own child or children, or his or her brother or sister, or their child or children, but that neither of his said sons, or his said daughter, should be at liberty to encumber his or her portion of the said estate beyond a lease for twenty-one years, and that no such lease should contain a covenant for a renewal unless it was a covenant for a renewal at an increased ground rent; and, in the eleventh place, he provided, that in case either of his said sons or his said daughter should die without making a will, and leaving lawful issue, then, and in such case, the share of such one so dying should go and belong to the child or children of such one so having died intestate, share and share alike ; and that if any one of his said children should die without lawful issue, without having made a will, as hereinbefore set forth, then the share of such child, so dying without issue, or without leaving a will, should go to the survivor or survivors of his the testator's own children, share and share alike, if more than one surviving, and if only one, then to that one, subject, however, to all the conditions of the said will ; and, in the twelfth place, he directed that, in case his said children should not be able to agree among themselves upon a division of the said property, upon the said Charles Thomas Bell attaining the age of thirty years, they should each select three disinterested persons of respectability to divide the estate for them ; but he directed that certain properties, which he therein specially described, should go to each of his said children, and should not, in the said general division, be taken into consideration, either as to value or otherwise, but should be treated as having been set apart and divided by the said testator in his lifetime, without further reference as to value or otherwise, subject, however, to all the other conditions of the said will, except as to the said division ; and, in the thirteenth place, he directed that upon the said general division taking place, then all the allowance to his said daughter, Emily Ann, should cease, unless she was then unmarried ; and, in the fourteenth place, he gave his said daughter full power over her own share, notwithstanding any marriage she might afterwards contract ; and he thereby made certain provisions for referring disputes between his children to arbitration, and for preventing recourse to litigation between them ; and lastly, he nominated and appointed his said wife, Catharine Bell, to be executrix and trustee, and John Bell, Robert Cathcart, Robert B. Miller and Edwin L. Potts to be executors and trustees of his said last will and testament ; and that the said Thomas Bell departed this life in the year one thousand eight hundred and sixty-seven without having revoked or altered his said will, leaving him surviving his wife the said Catharine Bell, and his children the said petitioners ; that the said Catharine Bell alone proved the said will and accepted the trusts thereof, the other executors and trustees having renounced probate thereof, and having also disclaimed the estate devised to them upon trust as aforesaid ; that the said Charles Thomas Bell is now of the age of twenty-six years



years and unmarried; that the said Emily Ann Lee was, in the year one thousand eight hundred and fifty-nine, married to the petitioner Thomas Hawkins Lee, by whom she has issue living; that the said William Houghton Bell is also married and has issue living; that the said Catharine Bell, after having acted as trustee and executrix under the said will, died intestate in the month of July, one thousand eight hundred and sixty-four, whereupon the trusteeship under the said will became and has since continued vacant; that the petitioner, Emily Ann Lee, in the month of November, one thousand eight hundred and sixty-four, filed her bill of complaint in the Court of Chancery for this Province against the other petitioners, praying, among other things, that the said trust estate might be administered; that such proceedings were had thereupon, that, by the decree of the said Court, William Thomas Mason, of the city of Toronto, accountant, was appointed receiver of the said estate, to collect and receive the rents and profits of the real estate of the testator, and to apply the moneys so to be received upon the trusts and for the purposes expressed and declared in the said will; that at the time the said decree was made, the petitioner, Emily Ann Lee, was entitled to certain arrears, in respect of the said annuity, and an agreement was thereupon made between the petitioners, providing for the payment to the said Emily Ann Lee, by the said receiver, of the said arrears and of future instalments, of the said annuity; that the said testator died seized of a large quantity of lands in various parts of this Province, of which by far the greater part being wild and uncultivated, are not only unproductive to the estate, but entail a heavy charge and expenditure for taxes and other outgoings and expenses, and that, by reason of the restrictions upon leasing contained in the said will, it is impossible to let them to advantage; that the said lands are exposed to waste and destruction, and that there are other heavy charges upon the estate of the said testator which cannot be provided for under the terms of the said will; that in order to enable the said receiver to discharge arrears of taxes which had accumulated upon many of the said wild lands, the said Court of Chancery authorized the said William Thomas Mason to raise the sum of two thousand dollars by way of loan, upon the security of the estates of the said petitioners on certain portions of the said lands; that the petitioners accordingly executed a mortgage for the said sum in favor of one Fanny Nordheimer, which mortgage is still unpaid; that the petitioners are advised and believe that it will be for the benefit of the said estate, and of all parties interested therein, if the same be vested in a trustee, with power to sell and dispose of such parts thereof as may seem expedient, and apply and hold the proceeds upon the trusts and for the purposes of the said will, and to invest the same in safe and advantageous securities; that such purpose cannot be effected without Legislative sanction; that the petitioners have agreed upon the said

William

William Thomas Mason as a fit and proper person for such trustee as aforesaid; and whereas the said William Houghton Bell, Charles Thomas Bell, Emily Ann Lee and Thomas Hawkins Lee have, by their said petition, prayed for the enactments hereinafter contained; and it is expedient to grant the prayer thereof: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Thomas Bell's  
estate vested  
in William  
Thomas Ma-  
son.

1. All and singular the messuages, lands, tenements, hereditaments, terms of years, and all the estate, real and personal, of or to which the said Thomas Bell died seized or possessed, or otherwise entitled, shall be, and the same are hereby vested in the said William Thomas Mason, to have and to hold the same in the like estate as the same were had or held by the said Thomas Bell upon the trusts in the said will declared of and concerning the same, and upon the trusts and for the intents and purposes hereinafter expressed and contained.

who is author-  
ized to sell on  
request;

2. It shall be lawful for the said William Thomas Mason, and he is hereby empowered and authorized at any time or times hereafter, at the request and by the direction of the said William Houghton Bell, Charles Thomas Bell, Emily Ann Lee and Thomas Hawkins Lee, or the survivor or survivors of them, to sell and dispose of any part or parts of such estate, either by private sale or public auction, for such price or prices as he may deem expedient, either wholly for cash, or partly for cash and partly upon credit, in which latter case the unpaid balance of purchase money, upon any such sale, shall be secured by a mortgage upon the property forming the subject of such sale, bearing such interest, not less than six per centum per annum, as shall be agreed upon between the said William Thomas Mason and such purchaser, such mortgage to be held and such interest to be applied, upon the trusts and for the purposes hereinafter declared respecting the proceeds of such parts of the said estate as may be sold; and the said William Thomas Mason is also hereby empowered and authorized to buy in any part or parts of such estate at any such sale by public auction, and to rescind any such private contract, and to resell the same without being answerable for any loss occasioned thereby, and to insert any special or other stipulation in any contract for or conditions of sale either as to title or evidence of title or otherwise, and to execute make and do all such conveyances, surrenders, assurances and acts as may be necessary or expedient in order to effectuate such sale or sales, or to vest a perfect title in such purchaser or purchasers; and every such conveyance, surrender and assurance shall be as valid and effectual as if the same had been executed by the said testator.

invest the  
proceeds;

3. It shall be the duty of the said William Thomas Mason, from time to time, as soon as conveniently may be after any such sale has been effected, to invest the proceeds thereof, after paying

paying and satisfying the costs and expenses attending the same, in public securities of the Dominion of Canada, or at interest upon real securities in this Province, with powers, from time to time, to alter, vary and transpose the said securities for and into any other of the said securities as the occasion may require.

4. It shall be lawful for the said William Thomas Mason, <sup>grant leases;</sup> from time to time, to grant leases of any portions of the said estate that may remain unsold for any term not exceeding ten years, to take effect immediately in possession and not by way of reversion or future interest, so that there be reserved in every such lease, payable during the term thereby created, the best yearly rental that can be reasonably obtained for the same: Provided always, that in the case of wild land or lands <sup>Proviso.</sup> requiring further improvements before they can be let at a reasonable money rental, it shall be lawful for the said William Thomas Mason, with the consent and upon the direction of the said William Houghton Bell, Charles Thomas Bell, Emily Ann Lee and Thomas Hawkins Lee, or the survivor or survivors of them, to let and demise the same for any term not exceeding ten years, to any suitable person who shall covenant and agree to improve the same by building, fencing, clearing or otherwise; and it shall further be lawful for the said William Thomas Mason to make any repairs or improvements upon the lands of the said estate from time to time remaining unsold, as may appear to be for the benefit of the said estate, with the consent aforesaid.

5. The said William Thomas Mason shall stand possessed of the annual produce, proceeds and interest of and upon such securities as aforesaid, and the rents and profits of such parts of the estate as remain unsold, and the whole net annual income of the said estate after payment of all taxes, assessments, repairs and other necessary outgoings and expenses <sup>and stand a</sup> <sup>possessed of</sup> <sup>proceeds upon</sup> <sup>trust.</sup> connected with the said estate, the management thereof, and the execution of the said trusts, including the payment of a proper commission to him as such trustee, upon trust to apply the same as follows, that is to say: firstly, in the payment and discharge of all costs, outlay and expenses connected with or relating to the passing of this Act; secondly, in the payment of all costs incurred in the said suit in the Court of Chancery in the recitals to this Act referred to, and still remaining unpaid; thirdly, in making proper provision for the payment and discharge of the said mortgage so authorized by the said Court of Chancery as in the recital of this Act is set forth, according to the terms of the said mortgage, and the order of the said Court so authorizing the same; fourthly, in payment of the balance of the arrears of her annuity, in the said recitals mentioned, to the said Emily Ann Lee in four equal annual instalments; and, lastly, to divide the net residue of the said annual produce, proceeds, interest, rents, profits and income between the said William



William Houghton Bell, Charles Thomas Bell and Emily Ann Lee in equal shares; and it is declared that the separate receipt of the said Emily Ann Lee shall be a sufficient discharge to the said trustee for any payment so made to her as aforesaid.

**Trusts.**

6. The said William Thomas Mason shall stand possessed of the corpus of the proceeds of any such sale or sales, and of the said securities in which the same may be invested as hereinbefore provided, and of the principal of any mortgage that may be given by purchasers for unpaid balances of purchase moneys of any parts of the said estate, subject to the provisions hereinbefore contained for the application and distribution of the annual income and produce thereof, upon the same trusts as, by the said will, are declared of and concerning the lands from the sale whereof the same arose; and the said corpus and securities shall be considered, for the purpose of devolution, of the same nature and character as the estate sold; and the persons who would, in the ordinary devolution of the estate, if the same had not been converted from realty into personalty, have become entitled to some interest in the same as realty under the said will of the said testator, shall have the like interest therein as they would have had in the estate sold under the authority of this Act, if no sale thereof had been made.

On death of  
W. T. Mason  
Court may ap-  
point new trust-  
tee.

7. In the event of the said William Thomas Mason dying or becoming incapable of further acting in the said trusts, or refusing to act further therein, or desiring to be discharged therefrom, or being guilty of any breach of trust or misconduct in relation to his office as such trustee as aforesaid, it shall be lawful for the Court of Chancery of this Province, upon the application of the said William Thomas Mason or of any person or persons interested in the said will, in a summary manner, by way of petition in the matter of the estate of the said testator, to nominate and appoint some fit and proper person to be trustee of the said estate in the place and stead of the said William Thomas Mason; and, in like manner, to appoint another in case of the death, incapacity, refusal or misconduct as aforesaid of the person so appointed, when and so often as occasion may require; and, immediately upon the appointment of such new trustee, all the said trust estate and premises shall vest in such new trustee, in like manner, and upon the same trusts as the same were held by the trustee to whose place such new trustee shall succeed; and every new trustee shall have all the powers, authorities and privileges of the trustee in whose room he shall be substituted.

Duty of trustee.

8. It shall be the duty of the said William Thomas Mason, and of any trustee that may be appointed under this Act, to account, from time to time, as any of the parties interested in the said will may reasonably require, and at least twice a year at the end of his dealings with the said estate; and such account may be taken by the Master of the said Court, upon the application

application of any such person, without any order of reference from the said Court; and the said Master shall have power to adjudicate and determine upon all matters connected with the said application, including the allowance and commission to such trustee for his care, trouble and services, and to decide in what manner and by whom the costs of taking such accounts shall be borne and paid, subject, however, to appeal to the Court in respect of any such matters, according to the ordinary practice of the Court.

9. Upon the said Charles Thomas Bell attaining the age of thirty years, it shall be lawful for the said William Houghton Bell, or the said Charles Thomas Bell, or the said Emily Ann Lee, with the consent and concurrence of the said Thomas Hawkins Lee, to apply to the said Court of Chancery in a summary way, upon petition, for leave to manage and control the one-third part of the moneys realized from any such sales as aforesaid, and of the securities in which the same may be invested; and it shall be lawful for the said Court, upon such applicant giving proper security to the satisfaction of the said Court for the protection of those interested in remainder or expectancy in the said moneys and securities, to grant such leave and to make a just division of the said moneys and securities, in case the parties differ about the same; and also to divide into three equal parts, in accordance with the directions contained in the said will, the lands then remaining unsold and undisposed of; and thereupon the said William Thomas Mason, or the trustee, for the time being, under the authority of this Act, shall pay, deliver over, transfer and assign to each of the said parties his or her share so ascertained as aforesaid, of the said moneys and securities; and each of the said parties shall be entitled thenceforth to collect and receive the produce, proceeds and annual income of the share so paid, transferred or assigned, and the rents and profits of the said portion of the unsold estate so awarded to him or her upon such division as aforesaid.

On majority of C. T. Bell, he may apply for leave to manage one-third part.

10. The said William Thomas Mason, or any trustee to be appointed under the authority of this Act, shall be entitled, from time to time, to apply by petition in the matter of the said estate to the said Court for advice and guidance in any question respecting the management or administration of the said trust estate, in the manner prescribed by the Act of the Legislature of the late Province of Canada, entitled, *An Act to Amend the Law of Property and Trusts in Upper Canada*; and shall, upon acting in accordance with such advice and guidance, be entitled to the protection afforded by the said Act; but this section shall not be construed as limiting in any manner the powers and discretion hereby conferred upon such trustee.

Trustees may apply to Court for directions, etc.

## CAP. LXXX.

## An Act to Incorporate the Simcoe and Muskoka Railway Company.

[Assented to 23rd January, 1869.]

## Preamble.

**W**HEREAS the construction of a railway from some point on the shore of Lake Couchiching, either in the township of North Orillia, in the county of Simcoe, or in the township of Rama, in the county of Ontario, to some point on the shore of Lake Muskoka, in the township of Muskoka, in the district of Muskoka, would develop the resources of the county of Simcoe and the district of Muskoka, and facilitate the opening up and settlement of the said district; and whereas it is expedient to grant a charter for the construction of such railway: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

## Incorporation.

**1.** Isaac May, Lewis Hotchkiss, George Burton, Robert H. Cozzens, Alexander Peter Cockburn, William Lount, William James Macaulay, John Teviotdale, Moses Davis, Benjamin Fuller and Thomas McMurray, together with such persons and corporations as shall, under the provisions of this Act, become shareholders in the said company hereby incorporated, are hereby constituted and declared to be a body corporate and politic by the name of "The Simcoe and Muskoka Railway Company."

## Clauses of General Railway Act repealed.

**2.** The several clauses of the Railway Act with respect to the first, second, third, fourth, fifth and sixth clauses thereof, and also the several clauses of the said Act with respect to "Interpretation," "Powers," "Plans and Surveys," "Lands and their Valuation," "Highways and Bridges," "Fences," "Tolls," "General Meetings," "President and Directors, their Election and Duties," "Calls," "Shares and their Transfer," "Municipalities," "Shareholders," "Actions for Indemnity, and Fines and Penalties and their Prosecution," "Notices," &c., "Working of the Railway" and "General Provisions," shall be incorporated with, and be deemed to be part of this Act, and shall apply to the said company, and to the railway to be constructed by them, except in so far as they may be inconsistent with the express enactments hereof; and the words "this Act," when used herein, shall be understood to include the clauses of the said Railway Act so incorporated with this Act as aforesaid.

## Line of railway authorized.

**3.** The said company hereby incorporated, shall have full power, under this Act, to construct a railway from any point on the shore of Lake Couchiching, either in the township of North Orillia, in the county of Simcoe, or in the township of Rama,



Rama, in the county of Ontario, to any point on the shore of Lake Muskoka, in the township of Muskoka, with full power to pass over any portion of the country between the points aforesaid, and to carry the said railway through the Crown Lands lying between the same.

4. The said company shall have power to purchase and hold property not exceeding ten acres at each extremity of the line of the said railway, for the purpose of building, and to build thereon, wharves, storehouses, warehouses, enginehouses, sheds and other erections for the use of the said railway company, and the same or portions thereof, in their discretion, subsequently to sell and convey.

Company may purchase land and resell.

5. The gauge of the said railway shall be in the discretion of the said company, except that it shall not be less than three feet six inches.

Gauge of railway.

6. The said company may construct the said railway with rails made of wood or iron, and afterwards change the same in their discretion.

Rails.

7. Conveyances of land to the said company, for the purposes of this Act, may be made in the form of schedule A, hereunder written, or to the like effect; and such conveyances shall be received by the several Registrars, and be registered by duplicate thereof, in such manner and upon such proof of execution, as is required by the Registry laws of Ontario; and no Registrar shall be entitled to demand or receive more than fifty cents for registering the same, including all entries and certificates thereof, and certificates endorsed on the duplicates thereof.

Form of conveyances and registration.

8. From and after the passing of this Act, the said Isaac May, Lewis Hotchkiss, George Burton, Robert H. Cozzens, Alexander Peter Cockburn, William Lount, William James Macaulay, John Teviotdale, Moses Davis, Benjamin Fuller and Thomas McMurray, shall be provisional directors of the said company.

Provisional directors.

9. The said provisional directors, until others shall be named as hereinafter provided, shall constitute the Board of directors of the said company, to open stock books; to make a call upon the shares subscribed therein; to call a meeting of the subscribers thereto for the election of directors, as hereinafter provided; and with all such other powers as, under the Railway Act, are vested in such boards.

Their powers.

10. The capital of the company hereby incorporated, shall be fifty thousand dollars, with power to increase the same in the manner provided by the Railway Act, to be divided into five hundred shares of one hundred dollars each, and shall be raised by the persons and corporations who may become shareholders

The capital, with power to increase.

shareholders in such company; and the money so raised shall be applied, in the first place, to the payment of all expenses for making the surveys, plans and estimates connected with the works hereby authorized; and the residue of such money shall be applied to the making, maintaining and working of the said railway, and the other purposes of this Act, and to no other purposes whatever.

Municipalities  
may aid by  
bonus, etc.

Proviso.

Proviso.

**11.** It shall further be lawful for any municipality or municipalities, through any part of which or near which the railway or works of the said company shall pass or be situated, or which may be benefited thereby, to aid the said company by loaning or guaranteeing, or giving money by way of bonus, or other means to the company, or issuing municipal bonds to or in aid of the company, and otherwise in such manner and to such extent as such municipalities, or any of them, shall think expedient: Provided always, that no such aid, loan, bonus or guarantee shall be given, except after the passing of by-laws for the purpose, and the adoption of such by-laws by the ratepayers, as provided in the Railway Act: Provided also, that after the delivery of the debentures to the trustees, as hereinafter provided, no by-law upon the authority of which such debentures were issued, shall be deemed to be invalid merely for want of compliance with all the formalities prescribed antecedent to the adoption of such by-law by the ratepayers, if such by-law shall have been approved by a majority of the persons legally qualified to vote on its adoption.

Trustee clause.

**12.** Whenever any municipality shall grant a bonus to aid the said company in the construction and equipping of the said railway, or for the other purposes of this Act, the debentures therefor shall, within six weeks after the passing of the by-law authorizing the same, be delivered to three trustees, namely, Alexander Mortimer Smith and Alexander T. Fulton, and a third to be named by the Lieutenant Governor in Council, and shall hold office during pleasure; and such trustees shall receive the said debentures in trust: firstly, to convert the same into money; secondly, to deposit the money realized from the sale of the said debentures in some one of the chartered banks, having an office in the city of Toronto in the name of the Simcoe and Muskoka Railway Municipal Trust Account, and to pay the same out to the said Company, from time to time, on the certificate of the Chief Engineer of the said railway, in the form set out in schedule B hereto, or to the like effect, to be expended by them *pro rata* on each mile of railway built between the lakes Couchiching and Muskoka aforesaid; and the said certificate of the Chief Engineer shall set out the portion of the railway to which the money to be paid out is to be applied, the total amount expended on such portion to the date of such certificate, and that the sum so certified does not exceed the *pro rata* amount to be applied on the work done; and the said certificates shall be attached to

to the cheques of the said trustees respectively, as they shall be drawn; and the wrongful granting of any such certificate by such Engineer, shall render him liable to a fine of one thousand dollars, and, in default of the payment thereof, to be imprisoned for a period of not less than six months, or punishable by fine and imprisonment by any Court of competent jurisdiction in the Province of Ontario: Provided that if the Lieutenant Governor shall neglect or refuse to appoint a trustee as aforesaid, within two months after notice shall have been given him, requiring such appointment to be made, then the directors, for the time being, shall have power to appoint a trustee with full powers under this Act.

Penalty.

Proviso.

**13.** The Act of any two such trustees shall be as valid and binding as if the three had concurred.

Act of majority binding.

**14.** As soon as shares to the amount of twenty thousand dollars of the capital stock of the said company shall have been subscribed, and twenty per centum thereof paid up *bona fide*, the provisional directors shall call a general meeting of the subscribers for the said capital stock, who shall have so paid up the per centum thereof, for the purpose of electing directors of the said company.

Directors when and how elected.

**15.** In case the provisional directors neglect or refuse to call such meeting for the space of three months after such amount of the capital stock shall have been subscribed, and twenty per centum thereof so paid up, the same may be called by any two of the subscribers who shall have so paid up twenty per centum, and who are subscribers among themselves for not less than three thousand dollars of the said capital stock, and who have paid up all calls thereon.

Effect of neglect to call meeting for election.

**16.** Notice of the time and place of holding a general meeting under the provisions of sections fourteen and fifteen of this Act, shall be given by publication in the *Ontario Gazette*, and in one newspaper in the county of Simcoe, once in each week, for at least five consecutive weeks before such general meeting; and such meeting shall be held in the village of Orillia, at such place, and on such day, as may be named by the said notice.

Notice of general meetings.

**17.** At such general meeting the subscribers for the capital stock assembled, who shall have paid up twenty per centum thereof, with such proxies as may be present (the persons holding and the persons giving such proxies having paid up the twenty per centum as aforesaid), shall choose five persons to be directors of the said company, and may also make and pass at the same or subsequent general meeting such rules, regulations and by-laws as may be deemed expedient: Provided they be not inconsistent with this Act.

Voting at election of directors.

Proviso.

**18.** No person shall be qualified to be elected a director by the

Qualification of directors.



the shareholders unless he be a shareholder holding at least ten shares of stock in the company, and unless he has paid up all calls thereon.

Annual general meeting and notice thereof.

19. Thereafter the general annual meeting of the shareholders of the said company shall be held in the village of Orillia, or in the city of Toronto, on such days and at such hours as may be directed by the by-laws of the said company; and public notice thereof shall be given at least thirty days previously in the *Ontario Gazette*, and in one or more papers published in the county of Simcoe and district of Muskoka, and in one paper published in the said city of Toronto.

Special general meetings.

20. Special general meetings of the shareholders of the said company may be held at such place in the village of Orillia, at such time, in such manner, and for such purposes, as may be provided by the by-laws of the said company, upon such notice as is required for the general annual meetings in the next preceding section of this Act.

Company may issue bonds.

21. The directors of the said company, after the sanction of the shareholders shall have been first obtained at any special general meeting, to be called for such purposes, in the manner and place aforesaid, shall have power to issue bonds made and signed by the President or Vice-President, and countersigned by the Secretary and Treasurer, and under the seal of the company, for the purpose of raising money for prosecuting the said undertaking; and such bonds shall, without registration or formal conveyance, be taken and considered to be the first and preferential claims and charges upon the undertaking and the property of the company, real and personal, then existing, and at any time thereafter acquired; and each holder of the said bonds shall be deemed a mortgagee and incumbrancer *pro rata*, with all the other holders thereof, upon the undertaking and the property of the company as aforesaid: Provided, however, that the whole amount of such issue of bonds shall not exceed at any time the capital stock then being of the said company, and that the amount of such bonds issued at any one time shall not exceed the amount of paid up cash instalments on its share capital, together with the amount of paid up municipal and other bonuses.

Proviso.

Payable to bearer and transferable by delivery.

22. All such bonds, debentures and other securities, and coupons and interest warrants thereon, respectively, may be made payable to bearer and transferable by delivery; and any holder of any such so made payable to bearer, may sue at law thereon in his own name.

Company may become parties to bills and notes.

23. The said company shall have power and authority to become parties to promissory notes and bills of exchange for sums not less than one hundred dollars; and any such promissory note made or indorsed, or any such bill of exchange drawn, accepted

cepted or endorsed by the President or Vice-President of the company, and countersigned by the Secretary and Treasurer of the said company, and under the authority of a quorum of the directors, shall be binding on the said company; and every such promissory note or bill so made, drawn, endorsed or accepted, shall be presumed to have been made, drawn, endorsed or accepted, as the case may be, with proper authority, until the contrary be shewn; and in no case shall it be necessary to have the seal of the said company affixed to such promissory note or bill of exchange; nor shall the President or Vice-President, or Secretary or Treasurer, be individually responsible for the same, unless the said promissory notes or bills of exchange have been issued without the sanction and authority of the Board of directors as herein provided and enacted: Provided, however, Proviso. that the said company shall not issue any promissory note or bill of exchange payable to bearer, or intended to be circulated as money, or as the notes or bills of a bank.

24. Every shareholder having one or more shares of the said capital stock shall, at any general meeting of the shareholders, be entitled to one vote for every share held by him: Provided One vote on each share. Proviso. always, that all calls on such share or shares shall have been fully paid at least one week before the time of such meeting.

25. Any meeting of the directors of the said company regularly summoned, as hereinbefore provided, at which not less than four directors shall be present, shall be competent to exercise and use all and every of the powers hereby vested in the said directors. Quorum.

26. On subscription for shares of the said capital stock, each subscriber shall pay forthwith to the directors, for the purposes set out in this Act, twenty per centum of the amount subscribed by him; and the said directors shall deposit the same in some chartered bank in Ontario to the credit of the said company; and no subscriber shall be entitled to vote on the stock subscribed for by him until such twenty per centum shall be *bona fide* paid; and the moneys so deposited shall be drawn out for the purposes of this Act only, and for no other purpose whatever. Amount payable on subscribing and where deposited.

27. Thereafter calls may be made by the directors for the time being, as they shall see fit: Provided that no calls shall be made at any one time of more than ten per centum of the amount subscribed by each subscriber, and that no call shall be made within one month of the next preceding call. Calls. Proviso.

28. Whenever it shall be necessary for the purpose of procuring sufficient lands for stations or gravel pits or for constructing maintaining and using the said railway, it is enacted, that the said company may purchase, hold, use and enjoy such land, and also the right of way thereto, if the same be separated from their Company may purchase lands and resell.

their railway, and to sell and convey the same or part thereof, from time to time, as they may deem expedient.

Forfeiture for  
non-user.

29. This Act, and all the provisions thereof, shall become null and void, unless the construction of the said railway be commenced within two years, and completed within five years, of the passing of the same.

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#### SCHEDULE A.

KNOW ALL MEN BY THESE PRESENTS that I (or we) (*insert also the name of the wife or any person who may be a party*) in consideration of                      dollars paid to me (*or as the case may be*) by the Simcoe and Muskoka Railway Company, the receipt whereof is hereby acknowledged, do grant and convey (and I the said                      do grant and release, or do bar my dower in, *as the case may be*) all that certain parcel or tract (*or those certain parcels or tracts, as the case may be*) of land situate (*describe the land*) the same having been selected and laid out by the said Company for the purposes of their Railway, to hold with the appurtenances unto the said Simcoe and Muskoka Railway Company, their successors and assigns forever.

As witness my (or our) hand and seal (or hands and seals) this                      day of                      , one thousand eight hundred and                      .

Signed, sealed and delivered }  
in duplicate in presence of } [L.S.]

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#### SCHEDULE B.

##### *Chief Engineer's Certificate.*

SIMCOE AND MUSKOKA RAILWAY COMPANY'S OFFICE,  
ENGINEER'S DEPARTMENT,

No.                      18

Certificate to be attached to cheques drawn on the Simcoe and Muskoka Railway Municipal Trust Account in Trustees' hands and given under sections                      of chap. 32 Vic.

I,                      Chief Engineer for the Simcoe and Muskoka Railway Company, do hereby certify, that there has been expended in the construction of mile No.                      (the said mileage being numbered consecutively from Lake Couchiching) the sum of                      dollars to date, and that the total *pro rata* amount



amount due for the same from the Municipal Trust Account amounts to the sum of \_\_\_\_\_ dollars, which said sum of \_\_\_\_\_ dollars is now due and payable as provided under the said Act.

Chief Engineer.

## CAP. LXXXI.

An Act for the Relief of the Toronto Street Railway Company, and to Provide for the Sale of their Railway, and for other purposes.

[Assented to 23rd January, 1869.]

**W**HEREAS the interest on the bonds issued by the Toronto Street Railway Company, and secured by a mortgage of the said railway and other the property of the said company, to the Honourable William Cayley, as trustee for the holders of the said bonds, is in arrear, and the company has also become otherwise indebted; and whereas judgment has been recovered against the said company for a large amount, and the appointment of a receiver of the income and tolls of the said company has been directed by the Court of Chancery for Ontario; and whereas the said railway is out of repair, and the keeping open of the railway for traffic, which is of the utmost importance to the citizens of Toronto, is imperilled; and whereas it is necessary that the said railway and its franchises should be absolutely sold to secure the uninterrupted working of the said railway: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Notwithstanding anything in any law or statute to the contrary, it shall be lawful for the said William Cayley, mortgagee in trust as aforesaid, or any judgment creditor of the said company, to proceed upon his mortgage or execution against goods, as the case may be, and sell thereunder the said railway, and all the chattels, rights, privileges and franchises of the said company, and all the appurtenances, by public auction, of which one month's notice shall be given in the *Ontario Gazette* and three insertions in each week of the three weeks' preceding the sale, in two daily papers in the city of Toronto, and whether the said William Cayley be in possession of the said railway or not; and any mortgagee or creditor of the said railway company may become the purchaser of the said railway at such sale; and such sale shall extinguish all mortgages, bonds, judgments and claims whatsoever existing at the time of the said sale of such railway,

Mortgagee in trust, or judgment creditor of railway, may sell the same, etc.

in so far as they are or may constitute a lien or charge upon or affect the said railway chattels, rights, privileges, franchises or appurtenances; and, by and under such sale, the said purchaser, his heirs or assigns shall acquire a good title to the said railway, and all the chattels, rights, privileges, franchises and appurtenances thereto belonging, or in any wise appertaining, freed and discharged from any claim and incumbrance whatsoever; and shall have full power to sell and dispose of the said railway rights, privileges and franchises, or to use and work the same upon the streets in the city of Toronto on which the said railway now is, or upon such other streets as may be desirable or for the public interest, the authority or permission of the corporation of the city of Toronto or adjacent municipality, for the removal or transfer of the said railway to such other streets, or the further construction of the said railway upon other streets than those now traversed by it, being first had and obtained by a by-law of such corporation, duly passed for that purpose; and such purchaser and the corporation of the city of Toronto shall have power, and are hereby authorized, to enter into contracts for the grading or altering the grades, or repairing of the streets so traversed, or to be traversed by the said railway; and generally, such purchaser shall and may have, enjoy, exercise and enforce all the rights, powers, claims, benefits, franchises and privileges granted to, or conferred on, or held, possessed or enjoyed by the said railway company by or under the Act of incorporation of the said street railway company, or any amendments thereof, as fully and effectually as if such charter had been granted to such purchaser, and shall be subject to all the obligations imposed by the original Act of incorporation upon the company: Provided always, that such purchaser or any proprietor of the railway, for the time being, when snow falls to the depth of six inches or upwards, shall not at any time between the first day of December and the fifteenth day of March following, plough up or remove the snow from the track of the said railway or from the streets in which such tracks are or may be hereafter laid.

Proviso.

In event of sale, how transfer of property effected.

2. Such transfer may be effected by deed under the hand and seal of the said William Cayley, if sold by him, or of the Sheriff selling the said railway, if the same shall be sold under execution.

Purchaser to put railway in repair.

2. The purchaser shall, by the first day of August next after the passing of this Act, put the railway in such condition and state of repair as is contemplated by the Act incorporating the said company, to the satisfaction of such person as the Court of Chancery or a Judge thereof shall appoint, which appointment the said Court or Judge is hereby empowered to make; and, in case the purchaser fails in this respect, nothing herein contained shall impair or affect any decree pronounced or to be pronounced in a certain suit in the said Court in the name of

of Her Majesty's Attorney-General, on the relation of William Hewett and others against the said company.

3. The purchase money upon such sale, after paying the expenses thereof, shall be paid to the several creditors of the company according to their priorities as they may legally exist, or as they may be settled by the said Court of Chancery in any suit now pending or hereafter to be brought in the said Court; and such purchaser, his heirs or assigns, may make such terms for the payment or security of the purchase money with such creditors as they may agree upon: Provided always, that nothing herein contained shall prevent, nor shall any law or practice to the contrary prevent, any mortgagee or creditor of the said company becoming the purchaser of the said railway as aforesaid.

Disposition of  
purchase  
money.

Proviso.

## CAP. LXXXII.

An Act to Amend the Act Thirty-one Victoria, Chapter Forty, entitled "An Act to Incorporate the Toronto, Grey and Bruce Railway Company."

[Assented to 23rd January, 1869.]

WHEREAS the Toronto, Grey and Bruce Railway Company have prayed for certain amendments of their charter, and for an extension of the favours conferred upon them thereby: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Preamble.

1. All by-laws passed by any municipality, or voted upon by the ratepayers of any municipality when passed, for the purpose of aiding the said Toronto, Grey and Bruce Railway Company, under the ninth section of the Act passed in the thirty-first year of Her Majesty's reign, chapter forty, and entitled, *An Act to Incorporate the Toronto, Grey and Bruce Railway Company*, and all debentures issued or to be issued under such by-law or by-laws shall be and are hereby declared to be legal and valid: Provided such by-law or by-laws have been adopted by a majority of legally qualified ratepayers who have voted thereon: Provided also, that the annual rate of assessment shall not, in any case, exceed for all purposes three cents in the dollar on the actual value of the whole rateable property within the jurisdiction of each municipality granting such bonus.

By-laws and  
debentures to  
aid the rail-  
way company  
confirmed, etc.

Proviso.

Proviso.

2. All by-laws which, at the time of the passing of this Act, have been submitted to the vote of the ratepayers, but not voted

By-laws valid,  
if not requir-  
ing over three  
voted



cents on the dollar yearly.

voted upon, and all by-laws hereafter to be submitted to such vote for granting bonuses to the said company not requiring the levying of a greater annual rate than three cents in the dollar as aforesaid, shall be valid, if passed in other respects in conformity with the provisions of the Act respecting municipal institutions, for the creation of debts.

Head of municipality granting \$250,000 to be a director.

3. Any municipality which shall grant a bonus of not less than two hundred and fifty thousand dollars in aid of the said company, shall be entitled to name a director in the said company as the representative of such municipality; and such director shall be in addition to all shareholders, directors in the said company; and shall not require to be a shareholder in the said company; and shall continue in office as a director in the said company until his successor shall be appointed by the municipality which he represents.

Sec. 10, 31 Vic., chap. 40 repealed, and new enactment.

4. So much of the tenth section of the said recited Act as requires all the trustees therein named to be residents of the city of Toronto, shall be and is hereby repealed; and in lieu thereof, Her Majesty so enacts that the trustees named by the Lieutenant Governor and the said company, shall alone be required to be residents of the city of Toronto.

Time limited to commence extended.

5. Notwithstanding anything in the said recited Act contained, the time for the commencement of the said road shall be extended for one year from and after the passing of this Act.

Sec. 12 amended.

6. The following proviso shall be added to the twelfth clause of the said recited Act: "Provided always, that nothing in the said clause contained shall prevent the application of any bonus given by the city of Toronto, or township of Arthur, or village of Mount Forest, or by any municipality between any of those points, *pro rata* to the mileage of the said railway between those points alone."

Bonus applicable to certain sections.

7. The company may build any part of their said railway to the west or north-west of the township of Arthur by sections; but no bonus voted by any municipalities to the west or north-west of the said township of Arthur shall be applied to any section out of such municipalities.

## CAP. LXXXIII.

An Act to Amend the Act Thirty-one Victoria, Chapter Forty-one, entitled "An Act to incorporate the Toronto and Nipissing Railway Company."

[Assented to 23rd January, 1869.]

WHEREAS the Toronto and Nipissing Railway Company Preamble.  
have prayed for certain amendments of their charter, and for an extension of the favors conferred upon them thereby : Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. All by-laws passed by any municipality, or voted upon by the ratepayers of any municipality, when passed for the purpose of aiding the Toronto and Nipissing Railway Company, under the tenth section of the Act passed in the thirty-first year of Her Majesty's reign, chapter forty-one, and entitled, *An Act to Incorporate the Toronto and Nipissing Railway Company*, and all debentures issued or to be issued under such by-law or by-laws, shall be and are hereby declared to be legal and valid: By-laws and debentures to aid the railway company confirmed, etc. Provided such by-law or by-laws have been adopted by a majority of legally qualified ratepayers, who have voted thereon: Provido. Provided also, that the annual rate of assessment shall not, in any case, exceed for all purposes three cents in the dollar on the actual value of the whole rateable property within the jurisdiction of each municipality granting such bonus. Provido.

2. All by-laws which, at the time of the passing of this Act, have been submitted to the vote of the ratepayers but not voted upon, and all by-laws hereafter to be submitted to such vote for granting bonuses to the said company not requiring the levying of a greater annual rate than three cents in the dollar as aforesaid, shall be valid, if passed in other respects in conformity with the provisions of the Act respecting municipal institutions for the creation of debts. By-laws valid if not requiring over three cents in the dollar yearly.

3. Any municipality which shall grant a bonus of not less than one hundred and fifty thousand dollars in aid of the said company, shall be entitled to name a director in the said company, as the representative of such municipality; and such director shall be, in addition to all shareholders, directors in the said company; and shall not require to be a shareholder in the said company; and shall continue in office as a director of the said company until his successor shall be appointed by the municipality which he represents. Head of municipality granting \$150,000 to be a director.

Sec. 11, 31.  
Vic., chap. 41  
repealed, and  
new enact-  
ment.

4. So much of the eleventh section of the said recited Act as requires all the trustees therein named to be residents of the city of Toronto, shall be and is hereby repealed; and, in lieu thereof, Her Majesty so enacts that the trustees named by the Lieutenant Governor and the said company shall alone be required to be residents of the city of Toronto.

Power to con-  
struct branch.

5. The said company and their servants shall have power to construct a branch of their said railway from a point in the township of Brock to navigable water in the town of Lindsay.

Time limited  
for construc-  
tion extended.

6. The time limited for the construction of the said railway, under the thirty-third section of the said Act, is hereby extended for the period of one year from the passing of this Act.

## CAP. LXXXIV.

An Act to Authorize the Law Society of Upper Canada to Admit Charles Gamon as a Barrister at Law.

[Assented to 23rd January, 1869.]

Preamble.

WHEREAS Charles Gamon has, by his petition, represented that he was in the year one thousand eight hundred and forty-eight, admitted to practice as an Attorney and Solicitor in Her Majesty's Courts of Law and Chancery at Westminster, and that he practiced in his profession until he came to Canada, in the year one thousand eight hundred and fifty-six, and was admitted to practice as an Attorney and Solicitor in the Courts of Upper Canada in the year one thousand eight hundred and sixty-two, and has been ever since continuously engaged in the practice of his profession; and whereas, for the reasons aforesaid, the said Charles Gamon has prayed that an Act may be passed to enable the Law Society of Ontario to call him to the Bar of Ontario upon passing the usual preliminary and final examinations prescribed by the said society; and, whereas it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Law Society  
may admit  
Chas. Gamon  
as Barrister.

1. It shall and may be lawful for the Law Society of Upper Canada, in their discretion, and upon payment of the usual fees therefor, at any time to call and admit the said Charles Gamon to the degree of Barrister, and to the practice of the law as such, on passing such final examination as may be prescribed by the said society, without his compliance with any requirements



ments or provisions of law, or other rules and regulations of the said society in that behalf, any law, custom or usage to the contrary notwithstanding.

### CAP. LXXXV.

An Act to Authorize the Law Society of Upper Canada to Admit William Darley Pollard as a Barrister at Law.

[Assented to 23rd January, 1869.]

WHEREAS William Darley Pollard has, by his petition, Preamble. represented that he was in the year one thousand eight hundred and forty-six, admitted to practice as an Attorney and Solicitor in Her Majesty's Courts of Law and Chancery, at Westminster, and was engaged in the practice of his profession until the year one thousand eight hundred and fifty-four; that he came to Upper Canada in the year one thousand eight hundred and fifty-six, and was admitted to practise as an Attorney and Solicitor in the Courts of Upper Canada, on the first day of September one thousand eight hundred and fifty-seven; and has, with the exception of about one year, been ever since his admission in the Courts of Upper Canada, engaged in the active practice of his profession; and whereas, for the reasons aforesaid, the said William Darley Pollard has prayed that an Act may be passed to enable the Law Society of Ontario to call him to the Bar of Ontario upon passing the usual preliminary and final examinations prescribed by the said society; and whereas it is expedient to grant the prayer of the said petition: Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. It shall and may be lawful for the Law Society of Upper Canada, in their discretion, and upon payment of the usual fees therefor, at any time to call and admit the said William Darley Pollard to the degree of Barrister, and to the practice of the law as such, on passing such preliminary and final examinations as may be prescribed by the said society, without his compliance with any requirements or provisions of law or other rules and regulations of the said society in that behalf, any law, custom or usage to the contrary notwithstanding.

Law Society  
may admit  
W. D. Pollard  
as Barrister.



1868-9.—32 VICTORIÆ.

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TO

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SECOND SESSION, FIRST PARLIAMENT, 32 VICTORIA.

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